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WRITINGS

OF

JOHN QUINCY ADAMS

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WRITINGS

OF

JOHN QUINCY ADAMS

EDITED BY

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WRITINGS

OF

JOHN QUINCY ADAMS

WRITINGS OF JOHN QUINCY ADAMS

TO THE PRESIDENT [1]

[James Monroe]

Department of State,
Washington, March 4, 1820.

Sir:

In answer to the question upon which you have done me the honor to require my written opinion in the words following:

"Has Congress a right under the powers vested in it by the Constitution to make a regulation prohibiting slavery in a territory?"

My opinion is that it has.

And in answer to the question in the words following:

"Is the eighth section of the act,[2] which passed both Houses on the 3d instant for the admission of Missouri into the Union, consistent with the Constitution?" [3]

My opinion is that it is.

Which is respectfully submitted.

John Quincy Adams.

[1] In his *Memoirs* for 1820 Adams has recorded the impressions made upon his mind by the Missouri question and the formation of a conviction may be there traced. See especially the entries for February 23, 24, and March 3 and 5, 1820.

[2] Interdicting slavery forever in the territory north of latitude 36° 30′.

[3] The original form of this question was, whether the eighth section was applicable only to the territorial state, or could extend to it after it should become a state. The discussion and reasons for changing the question are given in *Memoirs*, March 3, 1820.

We are of opinion that Congress has a right under the powers vested in it by the Constitution to make a regulation prohibiting slavery in a territory.

We are also of opinion that the eighth section of the act which passed both houses on the 3d instant for the admission of Missouri into the Union is consistent with the Constitution, because we consider the prohibition as applying to territories only and not to states.

Wm. H. Crawford.
J. C. Calhoun.
Wm. Wirt, *Attorney Genl. U. S.*

My answer to the within questions is in the affirmative, and would add that in my opinion the eighth section of the act applies only to Territories.

Smith Thompson.

Deposited by the President in the Department of State. [1]

PAPER SUBMITTED TO THE PRESIDENT [2]

20 March, 1820.

By the communications lately received from St. Petersburg and Madrid, as well those of an official character from Mr. Campbell and Mr. Forsyth as others more indirect and informal, it appears that the Russian government takes an earnest interest in the late transactions between the United States and Spain; that they have a full knowledge of the facts relating to the negotiation of the Florida treaty, and have manifested unequivocally the opinion that Spain was bound in good faith to ratify it.[3] In consequence of which

[1] The original paper was not found in the Department of State when search was made for it about 1870. ' *Ib.*, v. 15*n*.

[2] Adams, *Memoirs*, March 18, 20–25, 1820.

[3] See "Correspondence of the Russian Ministers in Washington, 1818–1825," in *American Historical Review*, XVIII. 309, 537.

it appears that the Russian minister to Spain, who was at St. Petersburg upon a leave of absence, had been ordered to return to Madrid. That in the meantime the Russian chargé d'affaires there had made such representations to the Spanish government as had drawn from them the strongest assurances of the king's desire and determination to settle amicably the differences with the United States. That Mr. Onis, who is known since his return to Europe to have declared uniformly and explicitly that he understood the grants to have been declared null by the treaty, has been appointed Spanish minister to Russia, and that the appointment by the king of Spain of General Vivés to come as Minister to the United States has been officially communicated by the Duke of San Fernando to Mr. Forsyth, but that he had not left Madrid on the 10th of January. The information from Mr. Everett that General Vivés was at Paris in December having proved to be erroneous, though given on the authority of the Spanish chargé d'affaires at The Hague, Mr. Forsyth thinks that General Vivés will not arrive here earlier than the month of May.[1]

[1] Vivés had, in February passed through Paris, on his way to Liverpool, and had conferred with Pasquier, Minister of Foreign Affairs, on his mission to the United States. Pasquier on February 12 informed Gallatin of this conference, who reported to Adams as follows: "General Vivés had told him that the principal points with Spain were that the honor of the Crown should be saved (mis à couvert) in the business of the grants, and to receive satisfactory evidence of our intention to preserve a fair neutrality in the colonial war. Mr. Pasquier had observed to him that it would be a matter of deep regret that private interest should prevent the conclusion of such an important arrangement, and that when it was clear that there had been at least a misunderstanding on the subject, the King's dignity could not be injured by a resumption of the grants or by an exchange for other lands. . . . He had expressed to General Vivés his opinion of the impropriety of asking from the United States any promise not to recognize the independence of the insurgent colonies, and had told him that, on that subject, Spain could only rely on the moral effect which a solemn treaty, accommodating all her differences with the United States would have on their future proceedings." From Vivés Gallatin

It is also ascertained that the Emperor of Russia earnestly wishes that no act of hostility on the part of the United States may in the present state of things intervene to endanger the general peace of Europe.

The sentiments of France in this respect are known to coincide with those of Russia, and the recent disturbances in Spain, although they may render it more certain that possession might be taken of Florida without hazarding a war, yet in the reasoning of a generous policy, may plead for a new proof of moderation and forbearance on the part of the United States.

It is suggested in Mr. Forsyth's dispatch that Spain may herself wish that the United States take forcible possession of Florida, with the expectation that she might under that circumstance contend with a better grace for a confirmation of the grants. It may be worthy of consideration whether the occasion even for this pretext should not be withheld from her.

There is a delicacy and some danger in making some of the important facts publicly known at this time, but it is submitted to the President's judgment, whether in the present aspect of affairs it would be advisable by a message to Congress [1] to state that while the most recent information from Europe forbids the expectation of the arrival of the Spanish minister before the close of their present session,

learned that he was not the bearer of the certificates of ratification of the treaty, but he could "in case of an arrangement, give satisfactory security to the United States, and that it would consist in consenting that they should take immediate possession of Florida, without waiting for the ratification of the treaty." Adams, *Writings of Gallatin*, II. 134. Almost a month passed after Vivês' visit before the King of Spain declared his acceptance of the constitution, which gave opportunity to urge its restriction on his power to alienate national territory as a reason for delaying ratification of the treaty with the United States.

[1] See Monroe's message to Congress, March 27, 1820. *Messages and Papers of the Presidents*, II. 69; Adams, *Memoirs*, March 31, 1820.

incidents have arisen which in the opinion of the President make it expedient that no step for the forcible occupation of Florida should be taken before the next meeting of Congress, and that he is not without hopes that amicable arrangements may during the recess be made with Spain, which will preclude the necessity of resorting to that measure.[1]

TO DON FRANCISCO DIONISIO VIVÉS [2]

DEPARTMENT OF STATE,[3]
WASHINGTON, April 21, 1820.

SIR:

I am directed by the President of the United States to express to you the surprise and concern with which he has

[1] "I return you the note of the Spanish minister with your draft of a reply, with such modifications as the short time I have had it in my possession has enabled me to make. . . . Among those proposed is the entire omission of what relates to Mr. Forsyth. The minister does not press his complaint, and as we cannot altogether justify Mr. F., and know that the public have disapproved the tone he assumed, I am inclined to think that perfect silence in regard to him is the most advisable." *Monroe to Adams*, April 15, 1820. Ms. Poletica reported to Nesselrode (February 12, 1820): "Le ton de la correspondance de Mr. Forsyth avec le Ministre Espagnol est maintenant presque généralement désaprouvé et l'on attribue la faute à Mr. Adams, qui en avait donné le premier exemple dans sa correspondance avec le chevalier Onis antérieurement à la conclusion du Traité."

"It is worthy consideration whether it will not be most advisable to decline all discussion with the Spanish minister and simply to consider his government in the wrong in not having ratified the treaty within the time stipulated, and to call on him for the proper reparation at this time. I fear if you enter on the subject at all, by replying to his specific heads, that he will prolong the discussion to indefinite length. I wish you to reflect on this, and to bring with you a short note to this effect, to be taken into view at the same time, as an alternate plan, provided it will not occasion improper delay." *Monroe to Adams*, April 17, 1820. Ms.

[2] He arrived in Washington, March 9, as Spanish minister in succession to Onis, but did not present his credentials to the President until April 12. See *Gallatin to J. Q. Adams*, February 15, 1820, Adams, *Writings of Gallatin*, II. 133; Adams, *Memoirs*, April 7.

[3] Adams had prepared, on April 19, the draft of a note to the Spanish minister,

learned that you are not the bearer of the ratification by his Catholic Majesty of the treaty signed on the 22d February, 1819, by Don Luis de Onis, by virtue of a full power equally comprehensive with that which you have now produced, a full power, by which his Catholic Majesty promised "on the faith and word of a king, to approve, ratify, and fulfil whatsoever might be stipulated and signed by him."

By the universal usage of nations, nothing can release a sovereign from the obligation of a promise thus made, except the proof that his minister, so impowered, has been faithless to his trust, by transcending his instructions.

Your sovereign has not proved, nor even alleged, that Mr. Onis had transcended his instructions; on the contrary, with the credential letter which you have delivered, the President has learned that he has been relieved from the mission to the United States only to receive a new proof of the continued confidence of his Catholic Majesty in the appointment to another mission of equal dignity and importance.

On the faith of this promise of the king, the treaty was signed and ratified on the part of the United States, and it contained a stipulation that it should also be ratified by his Catholic Majesty, so that the ratifications should, within six months from the date of its signature, be exchanged.

In withholding this promised ratification beyond the stipu-

having positively learned from Vivés that he did not bring the Spanish ratification of the treaty of 1819, and could give only pledges for a future performance conditional upon satisfactory answers to proposals to be submitted to the United States. Calhoun objected that this would mean a new negotiation which might be long continued, and suggested it would be best to refuse to negotiate again and insist on bringing the matter to a close. Accordingly a new note was prepared, as above, approved by the cabinet and sent to Vivés.

lated period, his Catholic Majesty made known to the President that he should forthwith dispatch a person possessing entirely his confidence to ask certain explanations which were deemed by him necessary previous to the performance of his promise to execute the ratification.

The Minister of the United States at Madrid was enabled, and offered, to give all the *explanations* which could justly be required in relation to the treaty. Your government declined even to make known to him their character; and they are now, after the lapse of more than a year, first officially disclosed by you.

I am directed by the President to inform you that explanations which ought to be satisfactory to your government will readily be given upon all the points mentioned in your letter of the 14th instant; but that he considers none of them in the present state of the relations between the two countries, as points for *discussion*. It is indispensable that, before entering into any new negotiation between the United States and Spain, that relating to the treaty already signed should be closed. If, upon receiving the *explanations* which your government has asked, and which I am prepared to give, you are authorized to issue orders to the Spanish officers commanding in Florida to deliver up to those of the United States who may be authorized to receive it, immediate possession of the province, conformably to the stipulations of the treaty, the President, if such shall be the advice and consent of the Senate, will wait (with such possession given) for the ratification of his Catholic Majesty till your messenger shall have time to proceed to Madrid; but if you have no such authority, the President considers it would be at once an unprofitable waste of time, and a course incompatible with the dignity of this nation, to give explanations which are to lead to no satisfactory result, and to re-

sume a negotiation the conclusion of which can no longer be deferred.

Be pleased to accept, etc.[1]

TO DON FRANCISCO DIONISIO VIVÉS [2]

DEPARTMENT OF STATE,
WASHINGTON, 3 May, 1820.

SIR:

The explanations upon the points mentioned in your letter of the 14th ultimo, which I have had the honor of giving you at large in the conference between us on Saturday last,[3] and the frankness of the assurances which I had the pleasure of receiving from you, of your conviction that they would prove satisfactory to your government, will relieve me from the necessity of recurring to circumstances which might tend to irritating discussions. In the confident expectation that upon the arrival of your messenger at Madrid, his Catholic Majesty will give his immediate ratification to the treaty of 22 February, 1819, I readily forbear all reference to the delays which have hitherto retarded that event, and all disquisition upon the perfect right which the United States have had to that ratification.

[1] The reply of the Spanish Minister, dated April 24, is in the *American State Papers*, Foreign Relations, IV. 682. Adams thought this reply "seems to leave the possibility of coming to an agreement with him [Vivés] desperate."

[2] Printed in *American State Papers*, Foreign Relations, IV. 683. The first draft of a note was prepared, April 26, and after some changes was approved by the cabinet on the 28th. The French minister had arranged for a conference between Adams and Vivés, and the note was held back to await the result. The conference took place on the 29th and made a new and different note necessary. This was prepared April 30 and submitted to the cabinet on the next day. A second conference with Vivés modified it, but on May 3 it was sent, without signature.

[3] Adams, *Memoirs*, April 29.

I am now instructed to repeat the assurance which has already been given you, that the representations which appear to have been made to your government of a system of hostility in various parts of this Union against the Spanish dominions and the property of Spanish subjects; of decisions marked with such hostility by *any* of the courts of the United States, and of the toleration in any case of it by this government, are unfounded. In the existing unfortunate civil war between Spain and the South American provinces, the United States have constantly avowed and faithfully maintained an impartial neutrality. No violation of that neutrality by any citizen of the United States has ever received sanction or countenance from this government. Whenever the laws previously enacted for the preservation of neutrality have been found by experience in any manner defective, they have been strengthened by new provisions and severe penalties. Spanish property, illegally captured, has been constantly restored by the decisions of the tribunals of the United States, nor has the life itself been spared of individuals guilty of piracy, committed upon Spanish property on the high seas. Should the treaty be ratified by Spain, and the ratification be accepted by and with the advice and consent of the Senate, the boundary line recognized by it will be respected by the United States, and due care will be taken to prevent any transgression of it. No new law or engagement will be necessary for that purpose. The existing laws are adequate to the suppression of such disorders, and they will be, as they have been, faithfully carried into effect. The miserable disorderly movement of a number not exceeding seventy lawless individual stragglers, who never assembled within the jurisdiction of the United States, into a territory to which his Catholic Majesty has no acknowledged right other than the yet unratified treaty, was so far

from receiving countenance or support from the government of the United States, that every measure necessary for its suppression was promptly taken under their authority; and from the misrepresentations which have been made of this very insignificant transaction to the Spanish government, there is reason to believe that the pretended expedition itself, as well as the gross exaggerations which have been used to swell its importance proceed from the same sources, equally unfriendly to the United States and to Spain.

As a necessary consequence of the neutrality between Spain and the South American provinces, the United States can contract no engagement, not to form any relations with those provinces. This has explicitly and repeatedly been avowed and made known to your government both at Madrid and at this place. The demand was resisted both in conference and in written correspondence between Mr. Erving and Mr. Pizarro, and afterwards the Marquis of Casa Yrujo. Mr. Onis had long and constantly been informed that a persistence in it would put an end to the possible conclusion of any treaty whatever. Your sovereign will perceive that, as such an engagement cannot be contracted by the United States consistently with their obligations of neutrality, it cannot justly be required of them. Nor have any of the European nations ever bound themselves to Spain by such an engagement.

With regard to your *proposals*, it is proper to observe that his Catholic Majesty in announcing his purpose of asking *explanations* of the United States gave no intimation of an intention to require new articles to the treaty. You are aware that the United States cannot consistently with what is due to themselves stipulate new engagements as the price of obtaining the ratification of the old. The declaration which Mr. Forsyth was instructed to deliver at the exchange

of the ratification of the treaty, with regard to the eighth article, was not intended to annul, or in the slightest degree to alter or impair the stipulations of that article. Its only object was to guard your government, and all persons who might have had an interest in any of the annulled grants, against the possible expectation or pretence that those grants would be *made valid* by the treaty. All grants subsequent to the 24th of January, 1818, were declared to be positively null and void; and Mr. de Onis always declared that he signed the treaty, fully *believing* that the grants to the Duke of Alagon, Count Puñon Rostro, and Mr. Vargas, were subsequent to that date. But he had in his letter to me of 16th November, 1818, declared that those grants were null and void, because the essential conditions of the grants had not been fulfilled by the grantees. It was distinctly understood by us both that no grant, of whatever date, should be made valid by the treaty, which would not have been valid by the laws of Spain and the Indies, if the treaty had not been made. It was, therefore, stipulated that grants prior to 24 January, 1818, should be confirmed, only "to the same extent that the same grants would be valid, if the territories had remained under the dominion of his Catholic Majesty." This, of course, excluded the three grants above mentioned, which Mr. Onis had declared invalid for want of the fulfilment of their essential conditions — a fact which is now explicitly admitted by you. A single exception to the principle that the treaty should give no confirmation to any imperfect title was admitted; which exception was, that owners *in possession* of lands, who by reason of the recent circumstances of the Spanish nation and the revolutions in Europe, had been *prevented* from fulfilling *all* the conditions of their grants, should *complete* them within the terms limited in the same, from the date of the treaty. This had ob-

viously no reference to the above mentioned grants, the grantees of which were not in possession of the lands, who had fulfilled *none* of their conditions, and who had not been *prevented* from fulfilling any of them by the circumstances of Spain or the revolutions of Europe. The article was drawn up by me, and before assenting to it, Mr. Onis enquired what was understood by me as the import of the terms "shall *complete* them." I told him that in connection with the term, "all the conditions," they necessarily implied that the indulgence would be limited to grantees who had performed *some* of the conditions, and who had commenced settlements which it would allow them to complete. These were precisely the cases for which Mr. Onis had urged the equity of making a provision, and he agreed to the article fully understanding that it would be applicable only to them. When after the signature of the treaty there appeared to be some reason for supposing that Mr. Onis had been mistaken in believing that the grants to the Duke of Alagon, Count Puñon Rostro, and Mr. Vargas, were subsequent to the 24th of January, 1818, candor required that Spain and the grantees should never have a shadow of ground to expect or allege that this circumstance was at all material, in relation to the bearing of the treaty upon those grants. Mr. Onis had not been mistaken in declaring that they were invalid because their conditions were not fulfilled. He had not been mistaken in agreeing to the principle that no grant invalid as to Spain should by the treaty be made valid against the United States. He had not been mistaken in the knowledge that those grantees had neither commenced settlements, nor been prevented from completing them by the circumstances of Spain, or the revolutions in Europe. The declaration which Mr. Forsyth was instructed to deliver, was merely to caution all whom it might concern, not

to infer from an unimportant mistake of Mr. Onis as to the date of the grants, other important mistakes which he had not made, and which the United States would not permit to be made by any one. It was not, therefore, to annul or to alter, but to fulfil the eighth article as it stands, that the declaration was to be delivered; and it is for the same purpose that this explanation is now given.

As by the eleventh article of the treaty, the proceeds of the sales of lands in the ceded territories are expressly designated as the source of the funds from which the just claims of the citizens of the United States, acknowledged and provided for by the treaty, are to be paid, no other disposition of any part of the lands by Spain could in any event be assented to by the United States; and the only effect of their acquiescence in the diversion of them to any other purpose would be, to give them a just and indispensable claim upon Spain, to provide for those indemnities by other means. It was with much satisfaction, therefore, that I learnt from you the determination of your government to concur in the construction of the article as understood by this government, and to assent to the total nullity of the above mentioned grants.

As I flatter myself that those explanations will remove every obstacle to the ratification of the treaty by his Catholic Majesty, it is much to be regretted that you have not that ratification to exchange, nor the power to give a pledge which would be equivalent to the ratification. This six months within which the exchange of the ratifications was stipulated by the treaty having elapsed, by the principles of our constitution the question whether it shall be now accepted must be laid before the Senate for their advice and consent. To give a last and signal proof of the earnest wish of this government to bring to a conclusion these long-standing and

unhappy differences with Spain, the President will so far receive that solemn promise of immediate ratification upon the arrival of your messenger at Madrid, which, in your note of the 19th ultimo, you declare yourself authorized in the name of your sovereign to give, as to submit to the Senate of the United States, whether they will advise and consent to accept it for the ratification of the United States heretofore given.

But it is proper to apprize you that if this offer is not accepted, the United States, besides being intitled to resume all the rights, claims, and pretensions, which they had renounced by the treaty, can no longer consent to relinquish their claims of indemnity, and those of their citizens, from Spain, for all the injuries which they have suffered, and are suffering, by the delay of his Catholic Majesty to ratify the treaty. The amount of claims of the citizens of the United States which existed at the time when the treaty was signed far exceeded that which the United States consented to accept as indemnity. Their right of territory was, and yet is, to the Rio del Norte. I am instructed to declare, that if any further delay to the ratification by his Catholic Majesty of the treaty should occur, the United States will not hereafter accept either of five millions of dollars for the indemnities due to their citizens by Spain, nor of the Sabine for the boundary between the United States and Spanish territories.[1]

Please to accept, etc.

[1] This note, dated May 3, was not signed until May 5, and the interchange of views upon it between the Secretary of State and the Spanish and French ministers will be found in the *Memoirs*, May 4 and 5, 1820. The President determined to submit the correspondence to Congress, and leave action to that body. The matter was discussed in a meeting of the Cabinet on the 6th, leaving the President in doubt what course he should pursue. Adams believed that some reply should be sent to Vivês to his latest note, and the note of May 8 was accepted. The message

TO DON FRANCISCO DIONISIO VIVÉS [1]

DEPARTMENT OF STATE,
WASHINGTON, May 8, 1820.

SIR:

In the letter which I had the honor of writing to you on the 3d instant, it was observed that all reference would readily be waived to the delays which have retarded the ratification by his Catholic Majesty of the treaty of the 22d February, 1819, and all disquisition upon the perfect right of the United States to that ratification, in the confident expectation that it would be immediately given upon the arrival of your messenger at Madrid, and subject to your compliance with the proposal offered you in the same note, as the last proof which the President could give of his reliance upon the termination of the differences between the United States and Spain by the ratification of that treaty.

This proposal was, that, upon the explanations given you on all the points noticed in your instructions, and with which you had admitted yourself to be personally satisfied, you

went to Congress on the 9th. *Messages and Papers of the Presidents*, II. 71; Adams, *Memoirs*, May 6–9, 1820.

Poletica had intimated to Nesselrode in February, 1820, that the Missouri question would interfere with a settlement of the Florida question, and added: "Il est malheureux pour Monsieur Adams d'y compter des ennemis trés influents dans les deux Chambres [of Congress] et d'avoir en même temps à se garder des antagonistes même dans le Cabinet. Depuis quelque temps Monsieur Adams parait fort à battre et plus rêservé que jamais: personne ne doute que ses chances pour arriver un jour à la Présidence ne soient presque entièrement détruites. On s'attend même à le voir déplacé après la réelection du Président actuel l'année prochaine. Dans ce cas je serai du nombre de ceux qui auront quelques raisons de le regretter. Mes relations personelles avec ce Ministre continuent à être très amicales: mais depuis la réunion du Congrès elles sont devenues très rares."

[1] Printed in *American State Papers*, Foreign Relations, IV. 685.

should give the solemn promise, in the name of your sovereign, which by your note of the 19th ultimo,[1] you had declared yourself authorized to pledge, that the ratification should be given immediately upon the arrival of your messenger at Madrid; which promise the President consented so far to receive as to submit the question for the advice and consent of the Senate of the United States, whether the ratification of Spain should, under these circumstances, be accepted in exchange for that of the United States heretofore given. But the President has, with great regret, perceived by your note of the 5th instant [1] that you decline giving even that unconditional promise, upon two allegations: one, that, although the explanations given you on one of the points mentioned in your note of the 14th ultimo are satisfactory to yourself, and you hope and believe will prove so to your sovereign, they still were not such as you were authorized by your instructions to accept; and the other, that you are informed a great change has recently occurred in the government of Spain, which circumstance alone would prevent you from giving a further latitude to your promise previous to your receiving new instructions.

It becomes, therefore, indispensably necessary to show the absolute obligation by which his Catholic Majesty was bound to ratify the treaty within the term stipulated by one of its articles, that the reasons alleged for his withholding the ratification are altogether insufficient for the justification of that measure, and that the United States have suffered by it the violation of a perfect right, for which they are justly entitled to indemnity and satisfaction — a right further corroborated by the consideration that the refusal of ratification necessarily included the non-fulfilment of an-

[1] Printed in *American State Papers*, Foreign Relations, IV. 681.
[2] *Ib.*, 684.

other compact between the parties which had been ratified — the convention of August, 1802.

While regretting the necessity of producing this proof, I willingly repeat the expression of my satisfaction at being relieved from that of enlarging upon other topics of an unpleasant character. I shall allude to none of those upon which you have admitted the explanations given to be satisfactory, considering them as no longer subjects of discussion between us or our governments. I shall with pleasure forbear noticing any remarks in your notes concerning them, which might otherwise require animadversion.

With the view of *confining* this letter to the only point upon which further observation is necessary, it will be proper to state the present aspect of the relations between the contracting parties.

The treaty of 22d February, 1819, was signed after a succession of negotiations of nearly twenty years' duration, in which all the causes of difference between the two nations had been thoroughly discussed, and with a final admission on the part of Spain that there were existing just claims on her government, at least to the amount of five millions of dollars, due to citizens of the United States, and for the payment of which provision was made by the treaty. It was signed by a minister who had been several years residing in the United States in constant and unremitted exertions to maintain the interests and pretensions of Spain involved in the negotiation — signed after producing a full power, by which, in terms as solemn and as sacred as the hand of a sovereign can subscribe, his Catholic Majesty had promised to approve, ratify, and fulfil whatever should be stipulated and signed by him.

You will permit me to repeat that, by every principle of natural right, and by the universal assent of civilized nations,

nothing can release the *honor* of a sovereign from the obligation of a promise thus unqualified, without the proof that his minister has signed stipulations unwarranted by his instructions. The express authority of two of the most eminent writers upon national law to this point were cited in Mr. Forsyth's letter of 2d October, 1819, to the Duke of San Fernando. The words of Vattel are: "But to refuse with honor to ratify that which has been concluded in virtue of a full power, the sovereign must have strong and solid reasons for it; *and*, *particularly*, *he must show* that his minister transcended his instructions." [1] The words of Martens are:

> Every thing that has been stipulated by an agent in conformity to his full powers, ought to become obligatory on the state from the moment of signing, without ever waiting for the ratification. However, not to expose a state to the errors of a single person, it is now become a general maxim that public conventions do not become obligatory until ratified. The motive of this custom clearly proves that the ratification can never be refused with justice, except when he who is charged with the negotiation, keeping within the extent of his public full powers, has gone beyond his secret instructions, and consequently rendered himself liable to punishment, or when the other party refuses to ratify.[2]

In your letter of the 24th ultimo, you observe that these positions have already been refuted by your government, which makes it necessary to inquire, as I with great reluctance do, how they have been refuted.

The Duke of San Fernando, in his reply to this letter of Mr. Forsyth, says, maintains, and repeats "that the very authorities cited by Mr. Forsyth literally declare that the sovereign, for strong and solid reasons, *or* if his minister has

[1] Liv. 2, ch. 12, § 156.
[2] Liv. 2, ch. 3, § 31.

exceeded his instructions, may refuse his ratification; (Vattel, book 2, chap. 12,) and that public treaties are not obligatory until ratified." Martens, book 2, chap. 3. In these citations the Duke of San Fernando has substituted for the connective term *and*, in Vattel, which makes the proof of instructions transcended indispensable to justify the refusal of ratification, the disjunctive term *or*, which presents it as an alternative, and unnecessary on the contingency of other existing and solid reasons. Vattel says the sovereign must have strong and solid reasons, *and particularly* must show that the minister transcended his instructions. The Duke of San Fernando makes him say the sovereign must have strong and solid reasons, *or if* his minister has exceeded his instructions. Vattel not only makes the breach of instructions indispensable, but puts upon the sovereign the obligation of proving it. The Duke of San Fernando cites Vattel not only as admitting that other reasons, without a breach of instructions, may justify a refusal of ratification, but that the mere fact of such a breach would also justify the refusal, without requiring that the sovereign alleging should prove it.

Is this refutation?

The only observation that I shall permit myself to make upon it is, to mark how conclusive the authority of the passage in Vattel must have been to the mind of him who thus transformed it to the purpose for which he was contending. The citation from Martens receives the same treatment. The Duke of San Fernando takes by itself a part of a sentence — "that public treaties are not obligatory until ratified." He omits the preceding sentence, by which Martens asserts that a treaty signed in conformity to full powers is in rigor obligatory from the moment of signature, without waiting for the ratification. He omits the part of the sentence cited, which ascribes the necessity of a ratification to

a usage founded upon the danger of exposing a state to the errors of its minister. He omits the following sentence, which explicitly asserts that this usage can never be resorted to in justification of a refusal to ratify, unless when the minister has exceeded his secret instructions; and thus, with this half of a sentence, stripped of all its qualifying context, the Duke brings Martens to assert that which he most explicitly denies.

Is this refutation?

While upon this subject, permit me to refer you to another passage of Vattel, which I the more readily cite, because, independent of its weight as authority, it places this obligation of sovereigns upon its immoveable foundation of eternal justice in the law of nature.

It is shown by the law of nature that he who has made a promise to any one has conferred upon him a true right to require the thing promised; and that, consequently, not to keep a perfect promise is to violate the right of another, and is as manifest an injustice as that of depriving a person of his property. All the tranquillity, the happiness, and security of the human race rest on justice, on the obligation of paying a regard to the rights of others. The respect of others for our rights of domain and property constitutes the security of our actual possessions. The faith or promise is our security for the things that cannot be delivered or executed on the spot. There would be no more security, no longer any commerce between mankind, did they not believe themselves obliged to preserve their faith and keep their word. This obligation is then as necessary as it is natural and indubitable between nations that live together in a state of nature, and acknowledge no superior upon earth, to maintain order and peace in their society. Nations and their conductors ought, then, to keep their promises and their treaties inviolable. This great truth, *though too often neglected in practice*, is generally acknowledged by all nations.[1]

[1] Liv. 2, ch. 12, § 163.

The melancholy allusion to the frequent practical neglect of this unquestionable principle would afford a sufficient reply to your assertion that the ratification of treaties has often been refused, though signed by ministers with unqualified full powers, and without breach of their instructions. No case can be cited by you in which such a refusal has been justly given; and the fact of refusal, separate from the justice of the case, amounts to no more than the assertion that sovereigns have often violated their engagements and their duties: the obligation of his Catholic Majesty to ratify the treaty signed by Mr. Onis is therefore complete.

The sixteenth and last article of this treaty is in the following words: "The present treaty *shall be ratified*, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, *or sooner if possible*." On the faith of his Catholic Majesty's promise, the treaty was, immediately after its signature, ratified on the part of the United States, and, on the 18th of May following, Mr. Forsyth, by an official note,[1] informed the Marquis of Casa Yrujo, then minister of foreign affairs at Madrid, that the treaty, duly ratified by the United States, had been intrusted to him by the President, and that he was prepared to exchange it for the ratification of Spain. He added that, from the nature of the engagement, it was desirable that the earliest exchange should be made, and that the American ship of war *Hornet* was waiting in the harbor of Cadiz, destined in a few days to the United States, and affording an opportunity peculiarly convenient of transmitting the ratified treaty to the United States.

No answer having been returned to this note, on the 4th of June Mr. Forsyth addressed to the same minister a sec-

[1] Printed in the *American State Papers*, Foreign Relations, IV. 654.

ond,[1] urging, in the most respectful terms, the necessity of the departure of the *Hornet*, the just expectation of the United States that the ratified treaty would be transmitted by that vessel, and the disappointment which could not fail to ensue should she return without it.

After fifteen days of further delay, on the 19th of June, Mr. Forsyth was informed by a note from Mr. Salmon, successor to the Marquis of Casa Yrujo, that "his Majesty, on reflecting on the great importance and interest of the treaty in question, was under the indispensable necessity of *examining* it with the greatest caution and deliberation before he proceeded to ratify it, and that this was *all* he was enabled to communicate to Mr. Forsyth on that point." [2]

Thus, after the lapse of more than a month from the time of Mr. Forsyth's first note, and of more than two months from the time when your government had received the treaty, with knowledge that it had been ratified by the United States, the ratification of a treaty which his Catholic Majesty had solemnly promised, so that it might be exchanged within six months from the date of its signature, *or sooner if possible*, was withheld merely to give time to his Catholic Majesty to *examine* it; and this treaty was the result of a twenty years' negotiation, in which every article and subject contained in it had been debated and sifted to the utmost satiety between the parties, both at Washington and Madrid — a treaty in which the stipulations by the Spanish minister had been sanctioned by successive references of every point to his own government, and were, by the formal admission of your own note, fully within the compass of his instructions.

If under the feeling of such a procedure on the part of the

[1] Printed in the *American State Papers*, Foreign Relations, IV. 654.
[2] *Ib.*, 654.

Spanish government, the minister of the United States appealed to the just rights of his country in expressions suited more to the sense of its wrongs than to the courtesies of European diplomacy, nothing had till then occurred which could have restrained your government from asking of him any explanation which could be necessary for fixing its determination upon the ratification. No explanation was asked of him.

Nearly two months afterwards, on the 10th of August, Mr. Forsyth was informed that the king would not come to a final decision upon the ratification without previously entering into several *explanations* with the government of the United States, to some of which that government had given rise, and that his majesty had charged a person possessed of his full confidence, who would *forthwith* make known to the United States his majesty's intentions. Mr. Forsyth offered himself to give every explanation which could be justly required; but your government declined receiving them from him, assigning to him the shortness of the time — a reason altogether different from that which you now allege, of the disrespectful character of his communications.[1]

From the 10th of August till the 14th of last month, a period of more than eight months passed over, during which no information was given by your government of the nature of the explanations which would be required. The government of the United States, by a forbearance perhaps unexampled in human history, has patiently waited for your arrival, always ready to give, in candor and sincerity, every explanation that could with any propriety be demanded. What, then, must have been the sentiments of the President upon finding, by your note of the 14th ultimo, that instead

[1] Printed in the *American State Papers*, Foreign Relations, IV. 655, 656.

of *explanations*, his Catholic Majesty has instructed you to demand the negotiation of another treaty, and to call upon the United States for stipulations derogatory to their honor, and incompatible with their duties as an independent nation? What must be the feelings of this nation to learn that, when called upon to state whether you were the bearer of his Catholic Majesty's ratification of the treaty to be exchanged upon the explanations demanded being given, you explicitly answered that you were *not?* and, when required to say whether you are authorized, as a substitute for the ratification, to give the pledge of immediate possession of the territory from which the acknowledged just claims of the citizens of the United States were stipulated to be indemnified, you still answer that you are *not;* but refer us back to a solemn promise of the king, already pledged before in the full power to your predecessor, and to a ratification *as soon as possible*, already stipulated in vain by the treaty which he, in full conformity to his instructions, had signed?

The ratification of that treaty can now no longer be accepted by this government without the concurrence of a constitutional majority of the Senate of the United States, to whom it must be again referred. Yet even this promise you were, by my letter of the 3d instant, informed that, rather than abandon the last hope of obtaining the fulfilment of his Catholic Majesty's promise already given, the President would, so far as was constitutionally within his power, yet accept.

The assurances which you had given me, in the first personal conference between us, of your own entire satisfaction with the explanations given you upon *all* the points on which you were instructed to ask them, would naturally have led to the expectation that the promise which you was authorized to give, would, at least, not be withheld. From your

letter of the 5th instant,[1] however, it appears that no discretion has been left you to pledge even his Majesty's promise of ratification in the event of your being yourself satisfied with the explanations upon *all* the points desired; that the only promise you can give is *conditional*, and the condition a point upon which your government, when they prescribed it, could not but know it was *impossible* that the United States should comply — a condition incompatible with their independence, their neutrality, their justice, and their honor.

It was also a condition which his Catholic Majesty had not the shadow of a *right* to prescribe. The treaty had been signed by Mr. Onis with a full knowledge that no such engagement as that contemplated by it would ever be acceded to by the American government, and after long and unwearied efforts to obtain it. The differences between the United States and Spain had no connection with the war between Spain and South America. The object of the treaty was to settle the boundaries, and adjust and provide for the claims between your nation and ours; and Spain, at no time, could have a right to require that any stipulation concerning the contest between her and her colonies should be connected with it. As his Catholic Majesty could not justly require it during the negotiation of that treaty, still less could it afford a justification for withholding his promised ratification after it was concluded.

The proposal which, at a prior period, had been made by the government of the United States to some of the principal powers of Europe for a recognition, in concert, of the independence of Buenos Ayres, was founded, as I have observed to you, upon an opinion then and still entertained that this recognition must, and would at no very remote period, be made by Spain herself; that the joint acknowledgment by

[1] *American State Papers*, Foreign Relations, IV. 684.

several of the principal powers of the world at the same time might probably induce Spain the sooner to accede to that necessity, in which she must ultimately acquiesce, and would thereby hasten an event propitious to her own interests, by terminating a struggle in which she is wasting her strength and resources without a possibility of success — an event ardently to be desired by every friend of humanity afflicted by the continual horrors of a war, cruel and sanguinary almost beyond example; an event, not only desirable to the unhappy people who are suffering the complicated distresses and calamities of this war, but to all the nations having relations of amity and of commerce with them. This proposal, founded upon such motives, far from giving to Spain the right to claim of the United States an engagement not to recognise the South American governments, ought to have been considered by Spain as a proof at once of the moderation and discretion of the United States; as evidence of their disposition to discard all selfish or exclusive views in the adoption of a measure which they deemed wise and just in itself, but most likely to prove efficacious by a common adoption of it, in a spirit entirely pacific, in concert with other nations, rather than by a precipitate resort to it on the part of the United States alone.

The conditional promise, therefore, now offered by you, instead of the positive one which you have declared yourself authorised to give, cannot be accepted by the President, and I am constrained to observe that he can consider the procedure of your government, in thus providing you with powers and instructions utterly inefficient for the *conclusion* of the negotiation with which you are charged, in no other light than as proceeding from a determination on its part still to protract and baffle its final successful issue. Under these circumstances, he deems it his duty to submit the

correspondence which has passed between us, since your arrival, to the consideration of the Congress of the United States, to whom it will belong to decide how far the United States can yet, consistently with their duties to themselves, and the rights of their citizens, authorize the further delay requested in your note of the 5th instant.

In the conclusion of that note, you have remarked, alluding to a great change which appears to have taken place since your departure from Madrid in the government of Spain, that this circumstance *alone* would impose on you the obligation of giving *no greater latitude to your promise* previous to your receiving new instructions. If I have understood you right, your intention is to remark that this circumstance alone would restrain you, in any event, from giving, without new instructions, the unconditional promise of ratification, which, in a former note, you have declared yourself authorized, in the name of your sovereign, to give. This seems to be equivalent to a declaration that you consider your powers themselves, in the extent to which they were intrusted to you, as suspended by the events to which you thus refer. If I am mistaken in taking this as your meaning, will you have the goodness to inform me how far you do consider your powers affected by the present state of your information from Spain? [1]

Please to accept the assurance, etc.

[1] The reply of the Minister, May 9, is in *American State Papers*, Foreign Relations, IV. 688.

TO DON FRANCISCO DIONISIO VIVÉS

DEPARTMENT OF STATE,
WASHINGTON, 18 May, 1820.

SIR:

The Congress of the United States having, conformably to the recommendation of the President, postponed acting upon the subject of the relations between the United States and Spain, it becomes important to know as speedily as possible the final determination of your government concerning them. From the correspondence and conferences between us your personal satisfaction upon all the points concerning which you had been instructed to require explanations has been declared; and I am now directed to inform you that the further delay in which the government of the United States has acquiesced in the just pursuit of their rights, was suggested by the spirit of the most friendly conciliation towards your country, and with a special regard to the interesting circumstances in which it is now placed. At all times, could the government of this Union indulge its earnest inclinations, undisturbed by the collision of duties to the just rights and interests of its own citizens, it would be to maintain the most friendly and harmonious intercourse with Spain. At this moment in particular, so far as the late changes in your government, of which every nation is its own exclusive judge, may contribute to the happiness, the prosperity, and the glory of your country, so far will they continue to be attended by the most friendly sympathies and good wishes of the United States. Presuming that you are now prepared to transmit to Spain the result of your mission, the President directs me to request of you the com-

munication as soon as possible of the decision of your government upon it.[1]

I seize the occasion, etc.

TO JOHN FORSYTH

DEPARTMENT OF STATE,
WASHINGTON, 25 May, 1820.

. . . . . .

You will perceive by the result,[2] that although General Vivés declares himself personally satisfied upon all the points concerning which he had been instructed to ask for explanations, yet inasmuch as upon one point, that of the demand that the United States should engage not to form any political relations with the South American provinces, they had not entirely met the expectations of the King, he declines giving more than a conditional promise in the name of his Catholic Majesty that the treaty shall be ratified immediately upon the arrival of the messenger whom he now dispatches to Madrid.

This proposal could obviously not be accepted; and had the government of Spain continued to this time essentially the same as when General Vivés received his instructions and proceeded upon his mission, there would have remained for the United States no other course than that of asserting their rights by the occupation of the territory ceded to them by the treaty. But the revolution which has since occurred

[1] A paragraph, expressing in "too strong terms approbation" of the revolution in Spain, was omitted at the suggestion of the President. Adams, *Memoirs*, May 18, 1820. On May 28th Vivés announced that the ancient title of the king of Spain had been altered to "Don Ferdinand the Seventh, By the Grace of God and by the Constitution of the Spanish Monarchy, King of Spain."

[2] *Correspondence on the Spanish treaty*, submitted to Congress, May 9, 1820.

in that government, having in the opinion of the President rendered forbearance on the part of the United States proper and expedient, in communicating to Congress the correspondence with General Vivés, he repeated the recommendation to postpone the consideration of the subject by that body until their next session, trusting that in the interval all necessity for their acting in a manner otherwise than amiable towards Spain will be removed by the ratification of the treaty.

You will understand, therefore, that if the Spanish government shall immediately upon the arrival of the messenger now dispatched by General Vivés determine to ratify the treaty, the ratification will be accepted by the President subject to the advice and consent of the Senate on the question whether it shall be received in exchange for the ratification of the United States heretofore given. The exchange, therefore, if made, must take place here, as it can no longer be made without the express and renewed assent of the Senate.

It is presumed that from the report made by General Vivés all the difficulties which have hitherto been alleged as obstacles to the ratification will be removed; but from a suggestion in your dispatch of 9 March which has been received, it is not impossible that a new objection may be started, namely of a want of power in the King under the constitution to which he has now sworn to consummate by his ratification the compact to which he had already pledged his solemn promise. Should this suggestion be made, it will not fail to occur to you, and if necessary to be duly urged, that the right of the United States, having been clearly perfect by the unqualified promise, could not be affected by any subsequent engagement of the King; and that the faith of the nation having been already bound by his engagement

while possessed of unlimited power, continues as much pledged under any internal change of government, as if no such change had happened. Thus much is unquestionable upon the principles universally recognized by the law of nations. But in urging this principle as a motive for requiring an immediate decision, you will add that the President has no intention to avail himself of it to fasten an unequal or a hard bargain upon Spain. He always has considered and still views the treaty as highly advantageous to Spain; and would not now desire its ratification if in the just and reasonable estimation of Spain herself it could be viewed in any other light. He instructs you, therefore, to manifest no peculiar earnestness to obtain the ratification; but to observe that the right of the United States to it within the stipulated six months having been perfect, and they having hitherto consented to waive any claim to further satisfaction and indemnity, for injuries sustained by them in consequence of the ratifications being withheld, they can extend this indulgence no longer, and that upon any subsequent adjustment with Spain they will insist upon further indemnity; that an additional provision will be indispensable for the existing claims of citizens of the United States upon the Spanish government; and that the right of the United States to the western boundary of the Rio del Norte will be reasserted and never again relinquished. Notice to the same effect has been given as you will observe to General Vivés, and you will take such further occasion as may be suitably offered, in terms as moderate and conciliatory as may be consistent with propriety, to make it known as the unalterable determination of the President.[1]

I am, etc.

[1] See *Monroe to Gallatin*, May 26, 1820, in Adams, *Writings of Gallatin*, II. 140.

TO JOHN HOWARD MARCH [1]

WASHINGTON, 25 May, 1820.

DEAR SIR:

I have received your obliging letter of 16 March, and the Hogshead and ¼ cask of wine to which it refers, for your kind attention in sending which I pray you to accept my best thanks.

I must at the same time request you to have the goodness to send me a bill for them, charged at the price which you would affix to the same articles to your regular commercial correspondents in this country, with information to whom it shall be paid for you.

This request is founded upon a principle which I have always considered as resulting from the spirit if not the letter of the Constitution of the United States.

While holding an employment in the public service I have always felt myself interdicted from the acceptance of any present of value, not only from foreign sovereigns but from any other person. As the observance of this practice is necessary to the consciousness of my faithful discharge of my public duties, I shall in paying the bill receive your compliance with my request as an obligation added to that for which I am indebted to you for this mark of regard.

I am, etc.

[1] United States consul at Madeira.

TO ALBERT GALLATIN

Department of State,
Washington, 26 May, 1820.

Sir:

Mr. de Neuville goes to France upon a leave of absence for a few months, and with the expectation of returning to resume his station here before the approaching winter.[1]

His conduct here has been so satisfactory to the President and so universally acceptable to the country, that I am directed to request that you would particularly make known to the French government the favorable sentiments entertained concerning it. His return here, should it continue to be conformable to his own wishes, and suitable to the views of his government, will be agreeable to the President; and if any other employment of him should be thought more useful to the service of his sovereign, or more adapted to his own prospects and convenience, while acquiescing in such a new destination to him from our good wishes for himself and his nation, we should have reason to desire nothing more promotive of the friendship and good understanding which we would earnestly cultivate with France, than that his dispositions and deportment should form an example for those of his successor.

I have, etc.

[1] He sailed from Annapolis, May 30.

TO ALBERT GALLATIN

DEPARTMENT OF STATE,
WASHINGTON, 28 May, 1820.

SIR:

I have the honor of enclosing herewith copies of the public documents relating to the negotiation with Spain, which have been recently communicated to Congress; together with copies of letters which have since passed between General Vivés and this Department.[1]

Upon the result of that minister's mission and the deficiency of his powers, no comment can now be necessary or useful. You will observe that he has not only denied that he was authorized in any event to give a pledge of the ratification of the treaty by consenting to the immediate occupation of Florida by the United States, but also that he ever stated either to you or to Baron Pasquier that he had such an authority.[2] In communicating the documents to Congress, as the material question for their consideration arising from them was, whether the case under all its circumstances required that the legislature in the exercise of their exclusive constitutional powers should substitute action to negotiation in our relations with Spain, it was thought necessary to make known to them every fact in the possession of the executive which might have an important bearing on the question.

The facts stated in your letter of 15 February,[3] as asserted by General Vivés to Baron Pasquier and to you in separate conversations at different times, apparently further confirmed by intimations from the Spanish Ambassador, the

[1] Printed in *American State Papers*, Foreign Relations, IV. 650.

[2] See Gallatin to Adams, August 7, 1820, in Adams, *Writings of Gallatin*, II. 165.

[3] *Ib.*, 678. See Adams, *Memoirs*, May 9, 1820.

Duke of Fernan Nuñez, were of such a character, compared with the explicit declarations of General Vivés here, that the communication of them to Congress was thought advisable. Even on the supposition that General Vivés had been misunderstood both by Baron Pasquier and yourself, it appeared to be more expedient that the apparent disagreement between his declaration at different times and places should be publicly known, subject to such elucidations as might afterwards be offered, than that the disclosure of what he had been understood to say at Paris should be withheld, with the chances of its being disavowed hereafter, and appearing to be an incident of material significancy to the real objects of the General's mission, and to the attitude of the two nations with reference to each other.

It is proper to advise you that in the communication of these representations of General Vivés by Baron Pasquier to the French legation here, he is understood to have expressed himself in terms not altogether positive, but to have intimated that *he had reason to believe* the General possessed the power above mentioned. . . .

Under the change of government which has taken place in Spain, it appears to be uncertain how the diplomatic relations between that country and the other European states will be affected. As the events which *produced* the revolution appear to be considered in a published speech of Baron Pasquier, chiefly with reference to their bearing upon *military discipline*, probably the intercourse between France and Spain may be less cordial for some time than it has been; and the influence of the former at Madrid less ostensibly respected. It is to be presumed, however, that a main object of the Cortes government will be to conciliate the acquiescence of their neighbors, and that they will be particularly disposed to cultivate the friendship of France. We are con-

vinced that through the whole of this negotiation the intention and good offices of France have been friendly to both parties; and although they have been inefficacious to operate upon Spain, and cannot be expected to carry with them hereafter even so much weight as before, we have no doubt they will be used as far as they can with propriety be applied, and the President requests a continuance of the useful attention which you have constantly bestowed upon these concerns.

I have, etc.

TO JOSIAH QUINCY

WASHINGTON, 5 June, 1820.

DEAR SIR:

I have received your letter of the 30th ult. informing me of my having been elected President of the American Academy of Arts and Sciences.

Under the encouragement of your obliging promise to supply in the discharge of the duties of this office the deficiencies unavoidable, from the circumstances of my present situation, I accept it with a grateful sense of the favor by which it has been conferred upon me.

If an ardent attachment to the arts which contribute to the comfort and elegance of life, and a deep veneration for the sciences which adorn and dignify the human character, could alike supply the deficiences which admit of no substitution, I should receive with unmingled pleasure this allotment of one of the highest distinctions to which virtuous ambition can aspire. I am, etc.

TO HENRY MIDDLETON [1]

WASHINGTON, 7 June, 1820.

Private.

DEAR SIR:

As it will be impossible to prepare for the mail of tomorrow the papers and documents which are to be furnished you, those only which will be indispensably necessary to enable you to proceed upon your mission will be now forwarded to you, and the rest will be transmitted to you in duplicates one to London, which it is hoped may arrive there soon after yourself, and the other directly to St. Petersburg to meet you there.

The Emperor of Russia has consented to act as the arbitrator between the United States and Great Britain on the question relating to the slaves. A joint application from the ministers of the two governments will be necessary to intro-

[1] The mission to Russia had been offered to Middleton in January, for the following reason:

"Mr. Rush has been instructed to propose to the British government the Emperor of Russia, as the sovereign the common friend to both parties, who by an article of the convention of 20 October, 1818, is to decide on the claim of restitution or indemnity to the owners of the slaves carried away by British officers after the late war, and as we contend in violation of the first article of the treaty of peace. As this question is of considerable importance, as it affects exclusively the interests of the citizens of the southern section of the Union, and as the President is anxious not only that all possible justice should be done to their claims, but that the person selected for maintaining it should possess with all other necessary qualifications the local sympathies with the sufferers which may be peculiarly adapted to give them confidence in the ardor as well as in the ability of his exertions in their behalf, he has thought he could look to no person so well suited by his qualifications to satisfy all the requirements of this mission as yourself. . . . Mr. Charles Pinkney of Baltimore is already commissioned at St. Petersburg as Secretary to the Legation, and will continue there in that capacity, if agreeable to you." *To Henry Middleton*, January 17, 1820. Ms.

duce the subject to him in form. Mr. Bagot, as you know, is the British ambassador newly appointed to Russia, and as he was to leave London to proceed upon his mission in May, he will probably reach St. Petersburg not long before you. As you pass through London it may be convenient that you should see Lord Castlereagh, and either directly or through the medium of Mr. Rush, prepare in concert with him the form of an application to be signed, either jointly or in the same terms separately by you and the British plenipotentiary.

A full power is enclosed among your papers to perform any act or acts relating to this transaction. It is apprehended that a similar full power will be necessary for Mr. Bagot, but this may perhaps not have occurred to the British government. Have the goodness to suggest it to Lord Castlereagh. Should he accede to the idea and furnish Mr. Bagot with such a power, copies of both should be interchanged between you and him and also communicated to the Russian government. Mr. Bagot by his diplomatic rank as *Ambassador* will of course in all ordinary cases take precedence of yours; but as a plenipotentiary for the transaction of this business he will have no such pretension, and you will take care to observe, in the signature of all papers and the arrangement of the parties in all documents, the rules prescribed by your instructions of insisting upon the *alternative*. In all cases of *mediations*, it is an admitted practice that papers requiring the signature of all the parties should be signed *first* by the mediators. The principle will undoubtedly extend to this case, and will no doubt be readily agreed to on the part of the British government. You will claim the alternative, therefore, only with regard to the British plenipotentiary, and not to the persons representing the empire.

The most important documents relating to this claim are contained in the printed message of the President of 7 February, 1817, a copy of which is now transmitted. The amount of property involved in it is so considerable, and the right of the case is so clear on our side, that the President feels a deep interest in its successful termination. I beg leave to recommend it to your most earnest attention and that nothing may be omitted to present it in the clearest possible light to the Emperor's government. It is also desirable that it should be pursued without delay, and therefore that your detention in England should be as short as possible. In the proceedings relating to this affair everything is committed to your discretion, and every reliance placed upon the vigilance and care with which it will be managed by you.

I regret exceedingly to be deprived of the opportunity of a personal interview with you before your departure, and of the satisfaction with which I should have communicated to you every information which might be useful to you on your arrival at St. Petersburg. I shall write you further as soon as possible, and in the meantime have only to assure you of my most earnest good wishes that your *voyages* may be prosperous to yourself and your family, and your mission equally satisfactory to you and advantageous to our country.[1]

I am, etc.

[1] Middleton embarked at New York, June 10, on the packet *Amity*, for Liverpool. His instructions were not ready until July 5.

TO DON FRANCISCO DIONISIO VIVÉS

DEPARTMENT OF STATE,
WASHINGTON, 8 June, 1820.

SIR:

I have had the honor of receiving your note of the 28th ultimo, communicating the information by order of your government, that his Catholic Majesty, being divested by the political constitution of the Spanish monarchy of 1812, adopted and sworn to by him, of all power to "alienate, cede, or exchange any province, city, town or place, or any portion whatever thereof of the Spanish territory without the consent of the Cortes," will lay before that body which is to meet in July next, the treaty of the 22d of February, 1819, in which the cession of the Floridas to the United States is stipulated.

From the correspondence which had passed between the governments of the United States and of Spain upon this subject before his Catholic Majesty had assented to this limitation of his powers, you are aware that the United States have maintained their perfect right to the ratification of that treaty within the term of six months from its signature, limited by one of its stipulations. This right was derived from the solemn and unqualified *promise* of his Catholic Majesty, contained in the full power which he had committed to your predecessor, Don Luis de Onis, who, by virtue of that power, signed in his name and behalf the treaty. The same *promise* which with the sanction of his oath, his Majesty has pledged to his people, of adherence to the constitution of 1812, had already been pledged to the United States for the ratification of the treaty; and it cannot be necessary to urge to you the undeniable principle that the rights of the

United States in their relations with Spain can in no wise be affected or impaired by any engagement of the king to his own people subsequent to an engagement equally sacred contracted with them.

The assurance of the earnest wish of his Majesty to establish on a solid basis the closest amity and most perfect harmony with the United States, corroborated by that sympathy which may be expected from congenial sentiments of liberty, is in a high degree acceptable to the President; and as there is no nation upon earth more qualified than these United States by their own experience to feel the connection between sentiments of liberty and national happiness, so there is no one which will more sincerely rejoice to find that the same connection will result from the experience of a constitutional government to the people of Spain.

In the firm conviction that the Cortes will feel every disposition to do justice in their political relations with this Union, and that they will immediately perceive the justice of enabling his Majesty to perform the promise already pledged to the United States, the President is gratified with the reflection that by the performance of this promise the Cortes will be called to no sacrifice incompatible with the honor, or derogatory to the interests of the Spanish nation. The sacrifices made by the United States in assenting to that treaty were neither inconsiderable, nor at the time of its conclusion unconsidered. They were agreed to in the spirit of concession, of harmony, and of magnaminity, which in the opinion of the President and Senate by whose concurrence it was ratified, ought to preside in all the important negotiations between independent nations. It was neither their policy nor their desire to obtain burdensome or unequal conditions from Spain. They believed the treaty would be eminently advantageous to both nations, and in the anticipa-

tion of mutual benefit and mutual satisfaction to be derived from it, they looked forward to its execution for results more permanent, comprehensive, and salutary, than could ever be foreseen from a compact in which concession would have been all on one side, with extortion or delusion on the other.

While the United States, therefore, have insisted, and yet insist, upon their perfect right to the ratification of that treaty, there is no unwillingness on their part that it should be decided upon by the Cortes on its merits as a compact involving the interests of Spain. Their decision, however, it is expected, will be without delay; and as you have been informed, subject to the advice and consent of the Senate of the United States, on the question whether it shall now be accepted in exchange for the ratification of the United States. That the willing assent of both parties may tend to the stability of the stipulations between them, to the general harmony of their future intercourse, and to the internal contentment of both nations, is the earnest desire of the President, as it is the motive to every measure which has been adopted by his direction, or at his recommendation.

Be pleased to accept, etc.[1]

[1] "It escaped my attention before I left the city to make an arrangement under your direction, for the publication of the secret journal of Congress, for the interval between the definitive treaty of peace with Great Britain, and the adoption of the present constitution, for which I understand that an act or resolution had passed the last session. It is very important that this be done in the most correct and faithful manner, and I shall be glad that you will take charge of it." *Monroe to John Quincy Adams*, June 5, 1820. Ms. See Adams, *Memoirs*, September 9, 1820. Upon the Secretary of State also fell at this time the burden of preparing the instructions to marshals for taking the census of 1820, and the two forms of blanks to be used in the process. *Ib.*, June 10, 1820.

TO THE PRESIDENT

[James Monroe]

Washington, 15 June, 1820.

Dear Sir:

On receiving your letter of the 9th instant by the return of the messenger, I immediately sent to request the Secretaries of the Treasury and of War, the only other members of the administration then in the city, to call at the office of this Department; when your letter concerning Rosewaine [1] and the papers relative to the case were considered, and the opinion in concurrence with yours being unanimous I answered the letter of Marshal Prince [2] accordingly.

Under the instructions in your letter of the 2nd instant, and in pursuance of the principles decided by you after full deliberation heretofore, pardons were made out for Samuel Poole and Francis Oglesbee (whose real name is Speir), under sentence of death for piracy at Richmond.[3] It had been determined that the whole number convicted at that place should be reprieved with the exception of two, and the Chief Justice and the district attorney were requested to give information, if there were extenuating circumstances in the cases of any of the individuals recommending them to mercy more than the others. The letters received from those officers are herewith inclosed.

In the *Richmond Enquirer* of the 6th, received here on the morning of the 9th, there was a long statement and repre-

[1] Edward Rosewaine, convicted at Boston of piratical murder and sentenced to be hanged. The sentence was executed.

[2] James Prince.

[3] Adams, *Memoirs*, June 9 and 12, 1820.

sentation addressed to you invoking the exercise of mercy in behalf of all the persons under sentence at Richmond. On consideration of that paper, together with the letters of the Chief Justice and Mr. Stanard,[1] which left it scarcely possible to distinguish who should be the two sufferers of fourteen, and that those indicated by the order of the list were, one a foreigner, and the other a man of color, it was presumed by Mr. Crawford, Mr. Calhoun, and me, that you would approve the extension of the reprieve to them all: and as there would have scarcely been time to give you this information, to receive your orders, and then to transmit the reprieve to Richmond before the day fixed for the execution, a respite *till further order* was made out for the whole fourteen, and forwarded to the marshal on the 11th.

After it was gone Mr. Fenwick [2] of Richmond came with petitions, signed by many highly respectable names, praying for the extension of clemency to all those unfortunate men. It was his intention to have proceeded with them to your residence in Albermarle; but upon my informing him that the pardon and reprieve had issued, he concluded to return to Richmond, leaving with me the petitions and other papers herewith enclosed.

I have now the honor to forward a statement of all the persons who were under sentence at the time when you left the city, and of the disposal which has been made of them.

There have been two executions at Baltimore, two at Charleston, one at Savannah, two at New Orleans, and this day is fixed for three at Boston. Seven have been pardoned and thirty-four are under reprieves *till further order*, to be kept in close confinement until you shall give further directions concerning them. This was thought safer as well as

[1] Robert Stanard.

[2] William Fenwick.

more convenient than further definite respites for two months, which would have required the issuing of new warrants every time that the term for a final decision concerning them should have been prolonged.

A letter from the mother of Ralph Clintock, respited till further order at Savannah, has been received by me, and is likewise among the papers herewith forwarded. Clintock is the person by whose disclosures the conduct of the collector of Savannah, and still more that of his brother, have been so deeply implicated.[1] Colonel Freeman called a few days since to enquire if the confidential papers submitted by him could be returned to him. When you shall have come to a decision whether any, and if any, what measure is to be taken upon these indications, I request the return of the papers which you will recollect you took with you.

From the evidence on the trial it appeared that the instructions to the captain of the privateer in which Clintock sailed were, if they took any vessel other than Spanish, they should send her in with orders to the prize master to personate the original captain of the vessel in making the entry at the custom house. The *Nordberg*, a Danish vessel, was taken and the prize master did personate the Danish captain in making entry of her at Savannah. Clintock's story is that these *instructions* were in the handwriting of the brother of the collector at Savannah. These instructions were among the papers produced and filed in court upon the trial. But when searched for after Clintock's disclosures, they had disappeared from the files and were not to be found. I have, etc.[2]

[1] Archibald S. Bullock and James S. Bullock.

[2] "The cases of piracy continue to accumulate. You will see in the newspapers one lately committed at the mouth of the Chesapeake, within the jurisdiction of the United States, by a vessel which had been several months refitting at Norfolk

TO HENRY MIDDLETON [1]

DEPARTMENT OF STATE,
WASHINGTON, 5 July, 1820.

. . . . . .

The relations of the United States with the Russian empire and its government, and which in their several bearings will require your constant and earnest attention are: 1, political; 2, commercial; 3, special, resulting from the reference by the United States and Great Britain to the Emperor Alexander, of the question between them upon the construction of the first article of the treaty of Ghent.

1. *Political.* The present political system of Europe is founded upon the overthrow of that which had grown out

under a spurious name and captain. And another, of a privateer called the *General Rondeau*, a Buenos Ayres commission, and a Baltimore captain. The case resembles that of the *Irresistible*, the crew took the vessel from their captain, and sent him off in an open boat, with all their officers except one, whom they killed. Thirty or forty of them have been taken up in various parts of the United States and are to be tried.

"In the instructions to Commodore Perry the articles in the privateering regulations of Buenos Ayres, which give rise to these atrocious acts, were pointed out, and he was directed to remonstrate against them. If these articles are not revoked, and the sham court at the island of Margarita is not set aside, no laws of ours will check this disorder till the imposter South American flags are totally excluded from our ports. By imposter flags I mean the vessels with South American commissions, Baltimore captains, and not a South American among their crews. I take the liberty of submitting to your consideration whether it will not be proper to instruct Mr. Prevost, Mr. Forbes, and Colonel Todd, to give formal notice to the government of Colombia, and of Buenos Ayres, that if they will not put an end to this crying scandal, it will be necessary to exclude all their private armed vessels from our ports." *To the President*, July 11, 1820. Ms.

[1] Almost a month was required for the preparation of the instructions for Middleton, and the importance of the questions involved is discussed in the *Memoirs*, June 26–29, 1820. Only a portion of the instructions are now printed.

of the French Revolution, and has assumed its shape from the body of treaties concluded at Vienna in 1814 and '15, at Paris, towards the close of the same year 1815, and at Aix la Chapelle in the autumn of 1818. Its general character is that of a compact between the five principal European powers, Austria, France, Great Britain, Prussia, and Russia, for the preservation of universal peace. These powers having then just emerged victorious from a long, portentous and sanguinary struggle against the oppressive predominancy of one of them, under revolutionary sway, appear to have bent all their faculties to the substitution of a system which should preserve them from that evil; the preponderancy of one power by the subjugation, virtual if not nominal, of the rest. Whether they perceived in its full extent, considered in its true colors, or provided by judicious arrangements for the revolutionary temper of the weapons by which they had so long been assailed, and from which they had so severely suffered, is a question now in a course of solution. Their great anxiety appears to have been to guard themselves each against the other.

The League of Peace, so far as it was a covenant of organized governments, has proved effectual to its purposes by an experience of five years. Its only interruption has been in this hemisphere, though between nations strictly European, by the invasion of the Portuguese on the territory claimed by Spain, but already lost to her, on the eastern shore of the Rio de la Plata. This aggression too the European alliance have undertaken to control, and in connection with it they have formed projects, hitherto abortive, of interposing in the revolutionary struggle between Spain and her South American colonies.

As a compact between governments it is not improbable that the European alliance will last as long as some of the

states who are parties to it. The warlike passions and propensities of the present age find their principal aliment, not in the enmities between nation and nation, but in the internal dissensions between the component parts of all. The war is between nations and their rulers.

The Emperor Alexander may be considered as the principal patron and founder of the league of peace. His interest is the most unequivocal in support of it. His empire is the only party to the compact free from that internal fermentation which threatens the existence of all the rest. His territories are the most extensive, his military establishment the most stupendous, his country the most improvable and thriving of them all. He is, therefore, naturally the most obnoxious to the jealousy and fears of his associates, and his circumstances point his policy to a faithful adhesion to the general system, with a strong reprobation of those who would resort to special and partial alliances, from which any one member of the league should be excluded. This general tendency of his policy is corroborated by the mild and religious turn of his individual character. He finds a happy coincidence between the dictates of his conscience and the interest of his empire. And as from the very circumstance of his preponderancy partial alliances might be most easily contracted by him, from the natural resort of the weak for the succor to the strong, by discountenancing all such partial combinations, he has the appearance of discarding advantages entirely within his command, and reaps the glory of disinterestedness, while most efficaciously providing for his own security.

Such is accordingly the constant indication of the Russian policy since the peace of Paris in 1815. The neighbors of Russia, which have the most to dread from her overshadowing and encroaching powers are Persia, Turkey, Austria, and

Prussia, the two latter of which are members of the European and even of the Holy Alliance, while the two former are not only extra-European in their general policy, but of religions, which excluded them from ever becoming parties, if not from ever deriving benefit from that singular compact.

The political system of the United States is also essentially extra-European. To stand in firm and cautious independence of all entanglement in the European system, has been a cardinal point of their policy under every administration of their government from the peace of 1783 to this day. If at the original adoption of their system there could have been any doubt of its justice or its wisdom, there can be none at this time. Every year's experience rivets it more deeply in the principles and opinions of the nation. Yet in proportion as the importance of the United States as one of the members of the general society of civilized nations increases in the eyes of the others, the difficulties of maintaining this system, and the temptations to depart from it increase and multiply with it. The Russian government has not only manifested an inclination that the United States should concur in the general principles of the European league, but a direct though inofficial application has been made by the present Russian minister here, that the United States should become formal parties to the Holy Alliance. It has been suggested as inducement to obtain their compliance, that this compact bound the parties to no specific engagement of any thing; that it was a pledge of mere principles; that its real as well as its professed purpose was merely the general preservation of peace, and it was intimated that if any question should arise between the United States and other governments of Europe, the Emperor Alexander, desirous of using his influence in their favor, would have a substantial motive and justification for interposing, if he could

regard them as *his allies*, which as parties to the Holy Alliance he would be.

It is possible that overtures of a similar character may be made to you; but whether they should be or not it is proper to apprize you of the light in which they have been viewed by the President. No direct refusal has been notified to Mr. Poletica. It is presumed that none will be necessary. His instructions are not to make the proposal in form, unless with a prospect that it will be successful. It might perhaps be sufficient to answer that the organization of our government is such as not to admit of our acceding formally to that compact. But it may be added that the President approving the general principles, and thoroughly convinced of the benevolent and virtuous motives which led to the conception and presided at the formation of this system by the Emperor Alexander, believes that the United States will more effectually contribute to the great and sublime objects for which it was concluded, by abstaining from a formal participation in it, than they could as stipulated members of it. As a general declaration of principles, disclaiming the impulses of vulgar ambition and unprincipled aggrandizement, and openly proclaiming the peculiarly christian maxims of mutual benevolence and brotherly love, to be binding upon the intercourse between nations no less than upon those of individuals, the United States, not only give their hearty assent to the articles of the Holy Alliance, but will be among the most earnest and conscientious in observing them. But independent of the prejudices which have been excited against this instrument in the public opinion, which time and an experience of its good effects will gradually wear away, it may be observed that for the repose of Europe as well as of America, the European and American political systems should be kept as separate and distinct from each

other as possible. If the United States as members of the Holy Alliance could acquire a right to ask the influence of its most powerful members in their controversies with other states, the other members must be entitled in return to ask the influence of the United States for themselves or against their opponents. In the deliberations of the league they would be entitled to a voice, and in exercising their right must occasionally appeal to principles, which might not harmonize with those of any European member of the bond. This consideration alone would be decisive for declining a participation in that league, which is the President's absolute and irrevocable determination, although he trusts that no occasion will present itself rendering it necessary to make that determination known by an explicit refusal.

2. *Commercial.* The aversion of the Emperor Alexander to the negotiation of any commercial treaties has probably undergone no change since the instructions to Mr. Campbell were prepared. We have no motive for desiring that it should.[1] You will however pay suitable attention to the actual state of our commerce with Russia, and particularly to the condition and prospects of the Russian establishments on the Black Sea. Voyages of circumnavigation and of discovery have been since the late general peace in Europe fitted out partly on account of the government, and partly under the direction and at the expense of Count Nicholas Romanzoff, late Chancellor of the empire. Of the objects of those voyages, and of the information obtained from them so far as it is of a public nature we shall be gratified in receiving any communication which you may think proper to transmit. . . . The movements of the Russian *American* Company may, perhaps, occasionally deserve your atten-

[1] No general treaty of commerce and navigation between the two powers was negotiated until 1832.

tion, as they are connected with the Russian establishments on the north west coast of this continent; but they will probably be found less important than they have been imagined. A translation of the *whole ukase* [1] by which that company was constituted, if you can obtain and forward it to this department, would be acceptable. . . .

TO JONATHAN JENNINGS [2]

WASHINGTON, 17 July, 1820.

Private.

SIR:

Several months have elapsed since I had the honor of receiving your letter of 27 January last, with its enclosure. That it has remained so long unanswered I entreat you to attribute to any other cause than personal disrespect to you, or insensibility to the importance of the subject to which it relates.

With regard to the removal of Mr. Erving, his office having been dependent upon the Department of the Treasury, neither the event nor its causes were known to me when they happened, nor do I yet know the precise grounds of complaint upon which he was removed. From my general confidence in the justice, equity and tenderness to the characters of executive officers, as well of the President as of the Secretary of the Treasury, I am entirely convinced that they were influenced in their proceedings on this occasion by motives of public duty alone; and that if Mr. Erving has suffered injustice, it has been owing to misrepresentations, the incorrectness of which could not be corrected by them.

[1] Of July 8, 1799. It is summarized in Moore, *International Arbitrations*, I. 755.

[2] (*c.* 1776–1834), first governor of the state of Indiana.

Your letter being confidential, I have not thought myself at liberty to communicate it even to the President, uncertain as I have been whether that was your intention. But permit me now to say, that if as the friend of Mr. Erving you would wish that any representation should be made to the President tending to show that he has labored under unfounded imputations, and that such representation should be made through me, I will very cheerfully make it and offer every service in my power to vindicate his reputation from any suspicion which may have been erroneously cast upon him.

I was aware of the disposition existing in a portion, I hope a very small portion, of the inhabitants of Indiana to recede from the principles upon which the northwestern territory was founded, and to remove the salutary prohibition of slavery which I consider as among the choicest blessings of their condition. The virtuous feeling and sound judgment of the great majority of the people will, I trust, preserve the state and the union from the calamity of such an apostasy. In this Union I consider slavery as the misfortune but not the fault of the states where it exists, and exemption from it as the happiness but not the merit of those where it does not exist. The abolition of slavery where it is established must be left entirely to the people of the state itself. The healthy have no right to reproach or to prescribe for the diseased; but that slavery should dare to claim legislative sanction in an American state where it has once been prohibited passes my comprehension. If a member of the legislature of the state of Massachusetts, or of Indiana, should move to bring in a bill for a nursery of rattle-snakes for the purpose of propagating the breed, or to import the yellow fever for the benefit of the infection, I should pronounce him wise, benevolent and patriotic, in comparison with him who should propose a bill for the establishment of slavery. I

hope and believe that this sentiment will become from day to day more prevalent in the Union, and that you will have the pleasure of seeing every contrary disposition in your state hide its head for shame, and ultimately vanish.

That you have been among the most distinguished of its citizens, by whose steady opposition the introduction of this portentous evil has been discountenanced and prevented, is well known to me, and is one of the sources of that high and sincere esteem and personal respect with which I am, etc.[1]

TO JOHN CLARK [2]

WASHINGTON, 24 July, 1820.

Private.

SIR:

I had some time since the honor of promising your Excellency, conformably to your request, copies of the *instructions* to the Indian Agent, by which I understood you to mean the

[1] "A writer in the *Richmond Enquirer* recommends a penitentiary system for the United States. It seems to me that this idea deserves to be well considered. You will shortly have to pass upon slave-traders as well as patriots. Sixteen of those fiends of humanity have been exported from the coast of Africa by the *Cyane*, to Boston, and are waiting for trial. By the reports we receive hundreds more may be expected. They spawn like fish on the coast of Labrador, and when they get their passports for the gibbet, you will have, I suppose, rolls as long as a chancery suit of *female* petitioners for mercy. The females petitioned you to spare the pirates at Richmond. The females at Baltimore petitioned Governor Sprigg to spare Hull and Hutton, mail robbers and murderers in cold blood. It is impossible to pass a censure upon the ladies; and my conclusion from these singular facts is, that the feeling of the country, male and female, is against all capital punishments.

"Duane is endeavoring to give a false color to the application of Colonel Johnson in his behalf last winter, but I believe he imposes upon no one. He is drowning and grasps around him with instinctive desperation at any one to carry down with him. I have copies of his two letters to Colonel Johnson, so that I presume it will not be necessary to write to that gentleman." *To the President*, July 22, 1820. Ms. On the Duane letters, see Adams, *Memoirs*, January 18, 1820, and later entries.

[2] Governor of Georgia. See Adams, *Memoirs*, July 22, 1820.

instructions transmitted to him at the time of his appointment. After repeated examinations at the War Department it was found that no such instructions were issued to him, excepting as contained in the certificate of his appointment, a copy of which is herewith enclosed. He is therein referred to the instructions which had been forwarded to his predecessor. The Chief Clerk in the War Department states that "on turning the records for the general instructions to Colonel Hawkins, it is found that he was appointed previous to the year 1800, at which time all the books and papers belonging to the Department were burnt, and there is no copy of them now in its possession from which one could be furnished."

You have observed in the public prints that General Jackson has been appointed a Commissioner to treat with certain Indians within the state of Mississippi. It is proper for me to inform you that when I had the honor of writing you that an application to the President for his appointment to that service had been declined on the ground of his own wish urgently expressed, I was under the impression that it had been *positively* declined. In that, however, I was mistaken. It had been suspended, subject to the determination of General Jackson himself, who as I now learn, yielded reluctantly to the request of the whole delegation from the state of Mississippi and consented to serve in that case. I feel this explanation to be necessary from me to you, and trust it is unnecessary for me to add how much I should have been gratified by his appointment conformably to your proposal.

I have received under blank cover two or three Georgia newspapers containing speculations upon speeches and resolutions of Mr. Cobb's [1] at the two sessions of Congress last

[1] Thomas W. Cobb (1784–1830).

elapsed. I have not the honor of a personal acquaintance with Mr. Cobb, but am well assured of the earnestness of his zeal for the interests of the state, one of whose Representatives he is. I believe he was informed when he made the motion for an appropriation to hold Indian treaties, that a message from the President, founded on your communication of 19 January, had already been determined upon, recommending the same thing. It certainly had been before his motion was made, and when it was not anticipated. There was assuredly no *merit* in the promptitude of attention in the general administration to the interests and wishes of the state of Georgia, so earnestly and forcibly recommended by you. As little reason was there for the insinuation that such promptitude had not been exercised.

This letter is marked as private, though relating altogether to transactions of a public nature. I am desirous that its explanations may be personally satisfactory to you, convinced as I am that I do but concur with you in the wish that to whomsoever the palm of preëminent ardor in the public service may belong, all its competitions may redound to the general prosperity of the Union, and to the special welfare of each and every one of its confederated states.

I am, etc.

TO THE PRESIDENT

[James Monroe]

Washington, 28 July, 1820.

Dear Sir:

I had the honor of receiving yesterday your letter of 24th instant which came by express. The reprieve for twelve months of *both* the men under sentence of death at Alexandria

had already been made out and transmitted to the Marshal of the District.

Copies are now enclosed of *all* the instructions which have been forwarded to Mr. Forbes.[1] As they were on various subjects, and I was under no small pressure of current business, I sent them in several successive letters. Upon the case of Lord Cochrane's capture I have not had the time to draw up a formal memorial. The letter of the 6th of July to Forbes, and the memorial of the complainants to which it refers, contain all the principles and all the reasoning that occur to me as applicable to the affair.

A letter from R. W. Habersham, the District Attorney in Georgia, received yesterday, likewise enclosed, calls for an early answer and presents for consideration several questions of great importance.[2] First, of the dispositions to be made of the slaves; and secondly, of the Baltimore South American patriots, who figure again in our courts. The first however is the only one upon which immediate decision is necessary, and I am to ask your directions.[3]

I am, etc.

TO THE PRESIDENT

[James Monroe]

Washington, 29 July, 1820.

Dear Sir:

Three letters from Mr. Parker, United States District Attorney at Charleston, South Carolina, upon which I beg

[1] James Grant Forbes, commissioner to carry the order from the King of Spain to the Governor and Captain General of Cuba for the delivery of the Floridas and of the archives belonging to them.

[2] The revenue cutter *Dallas* had captured a brig under the colors of Artigas with about 275 Africans on board.

[3] Monroe's reply is in *Writings of James Monroe*, VI. 145.

to be honored with your instructions. Judge Johnson seems to have discovered an agent from Buenos Ayres here, of whom I never heard — a Mr. La Borde. But the *Wilson* alias the United States brig *Enterprise*, alias the *Bolivar*,[1] is not now a Buenos Ayrean but a Colombian. Weedon, the surgeon, whom they caught at Charleston, is pleading his cause in the newspapers, and insists that no court has a right to try him but the court at Margarita. He is for being tried only by his *peers*. I hope Judge Johnson will show a little of his indignation in his decision of the case, and also in that of the mutineers of the *General Rondeau*, and above all that the indignation will be pointed to the right quarter. I take the liberty to propose that orders should be given to the Navy Department to purchase the *Valiente* and send her to cruise for Baltimore South Americans, and especially for any vessel commanded by José Almeida, be her name or flag what it may. I would also suggest that the collector at Norfolk be requested to give information how so notorious a pirate as Almeida could be permitted to refit his vessel and recruit men and go to sea, under the nose of all the revenue officers of the United States, merely by the paltry evasion of calling his vessel the *Wilson*, and his co-pirate George Wilson her commander. Weedon says that the ship from Porto Rico bound to Baltimore which they took in the waters of the United States was a slave trader. That if true is some consolation.[2]

. . . . . .

[1] A "Baltimore South American privateer," which after refitting and recruiting at Norfolk, sailed under the name of the *Wilson*, Captain Wilson, but committed an act of piracy as the *Bolivar*, Captain Almeida.

[2] Monroe's reply, dated August 4, is in *Writings of James Monroe*, VI. 152.

TO THE PRESIDENT

[James Monroe]

Washington, 2 August, 1820.

. . . . . .

A letter from the Collector of Baltimore [1] of 28 ultimo, enclosing one to him and extract of another from Mr. R. M. Harrison at St. Thomas, concerning the case of the *Cameleon*. As my impressions on the perusal of these papers happen to differ both from those of the collector and of Mr. Harrison, I take the liberty of submitting them to you for consideration. By the collector's own showing the *Cameleon* was either a pirate or a slave trader, and very probably both. The expression of surprise by the Governor of St. Thomas, that in time of profound peace the collectors of our ports should clear out armed merchant vessels with guns mounted and guns in the hold, is in my judgment altogether natural. The facility with which both pirates and slave-traders have year after year cleared out from the port of Baltimore has long struck many others besides the Governor of St. Thomas, and his *meaning* in the remark is not at all offensive to the United States, however it may be to Mr. McCulloh.

I wish to cast no reflection upon the collector of Baltimore, but his indignation like that of Mr. Harrison is not pointed to the right quarter.

Vigilant, zealous, and energetic revenue officers at Baltimore would have saved the United States not only from such

[1] James H. McCulloh.

remarks as that of Mr. Von Scholten, but from an enormous load both of slave trading and piracy.[1]

I have had the honor of receiving your letters of 24 and 28 ultimo with the enclosures. I have written to Governor King conformably to your directions, and to Mr. Van Ness, the Commissioner, enclosing copies of the Governor's letter and of the resolution of the legislature. I see no reason for doubting your power to appoint a person to assist the agent, if he wants assistance. But Governor King's letter strongly insinuates neglect of duty or incompetency on the part of the American agent, and the appointment of an assistant such as he proposes might be attended with great inconvenience. It has more the complexion of a superintendent or overseer than of an assistant, and I should think it doubtful whether Mr. Bradley, if he is conscious of having discharged his duty, could either accept such an assistant, or hold his office encumbered with him. It may however be otherwise. He may possibly readily consent to receive an auxiliary, and may need one. The resolution of the legislature as well as the letter of the Governor imports dissatisfaction at the slow progress of the business of the commission.[2]

. . . . . .

I am, etc.

[1] "I have long suspected that there was a remissness in the revenue officers at Baltimore to perform all that might have been justly claimed of them under the laws for the suppression of the slave-trade and piracy. The collector [McCulloh] enjoys the reputation of being an honest man, and a patriot. He was badly wounded in the late war, and had, I think, merit in our revolutionary struggle. His defect, therefore, may be imputed, in respect to the latter object especially, to zeal in favor of the colonies." *Monroe to Adams*, August 11, 1820. Ms.

[2] On the north eastern boundary.

TO THE PRESIDENT

[James Monroe]

Washington, 21 August, 1820.

Dear Sir:

I have had the honor of receiving your two letters of the 14th instant, together with the papers enclosed in them. I shall attend particularly to your instructions, as far as may be practicable in the absence of the Secretaries of the Treasury and of War and of the Attorney General.

This circumstance will of course preclude me from the means of consulting them with regard to the issuing of a pardon to Ralph Clintock, and makes it necessary to recur again to you for directions in that respect.[1] I have no doubt that the sentence of death passed upon him was just; yet if my impression of the evidence against him in the case is correct, there is nothing in it contradictory to his own statement to me in his letter. He admits that he did give orders to the men whom he commanded to fire upon the island where they landed the crew of the *Nordberg*, but affirms that he had previously given them the most positive orders to fire over their heads, and the fact was that no person was hurt by the firing.

There seems to me also to be this difference in his favor, between his case and that of Ferguson: that he *did not* personate the captain of the *Nordberg* to enter the vessel at the Custom House at Savannah, and that Ferguson did. He says that Smith the Captain proposed it to him, and that he refused. There is nothing in the evidence to confirm this, but there is nothing to contradict it.

[1] Adams, *Memoirs*, June 14, 1820.

With regard to the Bullocks, I take the offence of James S. Bullock and of the collector to have been that of accessories to the piracy committed upon the *Nordberg* both before and after the fact, and that of the clerk of the court, who made the *instructions* in James S. Bullock's handwriting to disappear from the files of the court, to be misprision of piracy. Whether either of the three is guilty of the crime is not for me to say. The charge against James S. Bullock rests not alone upon Clintock's declaration. One of the witnesses against Clintock says Smith read the instructions to the crew, and told them they were written by Bullock. Clintock, when he wrote me that they were in Bullock's handwriting, did not know that they had been purloined from the files. He appealed to them as being there, and supposed they might be *produced* and testified to by others. Their disappearance, Bullock's brother being the officer in whose custody they were, is a fact stronger than Clintock's declaration or oath. So the admission of the *Nordberg* to entry in violation of the law, and the compromise by which 45,000 dollars was paid to the supercargo to get rid of his suit, are facts far more significant than would be the testimony of Clintock. By the laws of the United States the punishment of the crime of James S. Bullock, if he was the author of the instructions, is capital. Whether the proof is sufficient to convict him is another consideration. But whether questions of law or questions of evidence might be started to save them from the gibbet or not, I believe the very exposure of the facts which a trial of the case would bring forth, would do more to put down piracy than the execution of a whole navy of common sailors.

Since I began this letter, your favor enclosing the papers relating to the case of Cornell, the young man under sentence of death in Rhode Island, have come to hand. Last week

I transmitted to you a letter from Mr. Hunter, the Rhode Island Senator, to the Attorney General, which perhaps will suggest additional reasons for a reprieve. As the impression of that letter upon the mind of Mr. Wirt himself may have weight, I now inclose his letter to me transmitting it, which ought indeed to have been forwarded to you with it. After having advised Mrs. Cornell not to go to Virginia to present herself personally to you as a petitioner for her son, I cannot resist the impulse of becoming myself a petitioner in her stead. There seems to me little, if anything, to discriminate the case unfavorably with regard to the convict from that of the man in Alexandria under similar sentence, who has been reprieved for twelve months.

The Abbé Correa is here, and called upon me this morning. His conversation is moderate, and he professes to be satisfied with the disposition of the executive; but he broached something about his *American system* which I noticed in the manner suggested by your letter by saying, that it would be taken into serious consideration by you, and something of complaint against the District Judges at Baltimore and Charleston, South Carolina, as well as against several officers of our navy (midshipmen), who he says have been concerned in the piratical privateers, and whom he told me he should in an official note indicate to me by name.[1]

[1] "Mr. Correa will, I presume, soon be with you. He intimated to a friend [Jefferson] in this neighborhood that a proposition had been made in the Brazil cabinet, either to declare war against the United States, or that the United States were in a state of war with Brazil. He has in his intercourse in this neighborhood, as I have understood, spoken much of an American system of politics, in contradistinction to the European; illustrating the idea by an example of this kind: that we, that is, the United States and Portugal, would undertake to suppress piracy in the neighboring seas, if the powers of Europe would suppress it in Africa. The idea has something imposing in it, but I am inclined to think that the effect would be to connect us with Portugal in some degree against the revolutionary colonies. Their governments are badly organized; those who profess friendship for them easily

A letter from you to Mr. Rush is among the present enclosures.

I am, etc.

TO ALBERT GALLATIN [1]

DEPARTMENT OF STATE,
WASHINGTON, 24 August, 1820.

. . . . . .

It is sincerely hoped by the President that this counteracting and countervailing system will give way to the disposition for an amicable arrangement in a conciliatory spirit and with a view to the interests of both parties. The temper which has been manifested in France, not only on this occasion [2] but in relation to *all* the just claims of citizens of the United States upon the French government could not possibly terminate without coming to a crisis. And at the same time that a positive rejection of the most indisputable demands of our citizens for indemnity was returned for answer to every note which you presented in their behalf, upon the untenable pretence that the government of the Bourbons cannot be responsible for the outrages of its immediate predecessors, claims equally untenable were advanced and reiterated with the most tenacious perseverance of privileges contrary to our constitution in the ports of Louisiana,

impose on them, and under their name commit piracy on other powers. It requires time to get them in the right road. We must allow them some time and point out the road to them. In this way I think we shall suppress piracy sooner and more effectually than by any aid to be derived from Portugal, and certainly more consistently with our general scheme of policy." *Monroe to Adams*, August 11, 1820. See Adams, *Memoirs*, September 19, 1820.

[1] Printed in *American State Papers*, Foreign Relations, V. 646.

[2] Tonnage duties and the act of Congress of May 15, 1820.

founded on an inadmissible construction of an article in the treaty for the cession of Louisiana.[1]

If the construction contended for of that article by France were even correct, how can the present government claim any advantage from a compact made with Napoleon, after an explicit declaration that they hold themselves absolved from all obligation of indemnities due to the United States and their citizens for his acts? I mention this now, because Mr. Roth [2] informs me that he has directed the French consul at New Orleans to *protest* against the execution of the act of 15 May, 1820, specially in the ports of Louisiana. There was a long and elaborate note from Mr. de Neuville on this subject, to which a distinct and explicit answer was given by me. That minister replied, but as there was nothing new in the shape of argument in his second note, a second answer from me was postponed, merely for the purpose of avoiding altercation, where it could be no possible object to us to have the last word. The pretence is that by the 8th article of the Louisiana treaty, French vessels are to be forever treated in that province on the footing of the most favored nation; and on the strength of this they claim to be admitted *there*, paying no higher duties than English vessels. Our answer is that English vessels pay there no higher or other duties than our own, not by *favor* but by bargain. England gives us an equivalent for this privilege; and a merchant might as well claim of another, on the score of equal favor, that he should *give* a bag of cotton or a hogshead of tobacco to *him*, because he had *sold* the same articles to a third, as France can claim as a gratuitous favor to her that which has been granted for valuable consideration to Great

[1] This argument is considered in Gallatin's reply, in Adams, *Writings of Gallatin*, II. 175.

[2] French chargé d'affaires at Washington.

Britain. The claim to which we admit that France is entitled under that article is to the same privilege enjoyed by England upon her allowing the same equivalent. That is completely and exclusively our treatment of the most favored nation, and to that we are not only willing but desirous of admitting France. But even to that she can have no pretence while she refuses to be responsible for the deeds of Napoleon. If she claims the benefit of his treaties, she must recognize the obligation of his duties, and discharge them. . . .[1]

TO THE PRESIDENT

[James Monroe]

Washington, 26 August, 1820.

Dear Sir:

The enclosed letter from I. Byers of New York to General Parker was delivered to me by that officer, and relates to a

[1] "The act of Congress of 15 May last was passed on the last day of the session; but had been presented by the Committee on the 15th of February. At the time when it was proposed its commencement on the first of July would have given ample time for the owners of all French vessels in Europe to be made acquainted with its provisions, before fitting out or dispatching any vessel which would have been subject to them. Other subjects absorbed the attention and feeling of both houses till the close of the session, and a motion to postpone the commencement of the act to the first of October was made on the last day and lost only from an apprehension that as an amendment requiring the concurrence of both Houses it was not at that stage of the bill in order, and might endanger its passage. . . . The Committee of Commerce who reported the bill *intended* to levy a tonnage duty *at least* counter-balancing all the surcharges of the French law. Your letters, I believe, formed the principal substratum of the evidence upon which they acted. The Executive had contemplated a duty of twelve dollars, but the Committee, as you know all committees of Congress do, consulted the Executive and followed their own ideas. The call for the law from the merchants was loud and urgent, and the Committee, as usual, sympathized with the feelings of their constituents." *To Gallatin*, September 13, 1820. Ms.

subject of very considerable importance. To give you a more perfect understanding of its contents, I enclose with it a letter of 15 November, 1819, from Jeremy Robinson, at Valparaiso. General Parker says that more than twenty vessels have been fitted out from New York, and have sailed or are about to sail upon sealing and whaling voyages to this newly discovered island or continent.[1] Byers says they will be on the spot before the English, but whether they can reach latitude 61° 40′ south in October, which answers to our April, is to be seen. I much doubt it. If they do, and the English adventurers come there afterwards, we shall hear more of it. Nootka Sound and Falkland Island questions may be expected. I beg leave to recommend the affair to your particular consideration. The British government just now have their hands so full of coronations and adulteries, liturgy, prayers, and Italian sopranos, Bergamis and Pergamis, high treasons and petty treasons, pains, penalties and paupers, that they will seize the first opportunity they can to shake them all off; and if they can make a question of national honor about a foothold in latitude 61° 40′ upon something between rock and iceberg, as this discovery must be, and especially a question with us, they will not let it escape them.

I desired General Parker to advise Mr. Byers to see the Secretary of the Navy and confer with him about this project of a settlement and sending a frigate *to take possession.* I hope this plan will meet your approbation. There can be no doubt of the right, and the settlement is a very good ex-

[1] "The discovery of land in the Pacific, of great extent, is an important event, and there are strong reasons in favor of your suggestion to aim at its occupancy on our part. Communicate the documents to the Secretary of the Navy and suggest the motive, asking how far it would be practicable to send a frigate there, and thence to strengthen our force along the American coast. I shall also write him on the subject." *Monroe to Adams*, September 1, 1820.

pedient for protecting the real objects — to catch seals and whales. The idea too of having a grave controversy with Lord Castlereagh about an island latitude 61° 40′ south is quite fascinating.

I send also another letter from Jeremy Robinson of 17 January, 1820, very long and interesting. This man has given us so much valuable information, and sees things with so much more impartiality and therefore accuracy than some others who have been there, that I almost wish you would forget his indiscretion by which he forfeited the commission he had obtained, and restore him to some subordinate agency. I shall have a translation made of the long letter from the Director O'Higgins [1] to you which was forwarded through Robinson, and to which I suppose the Director will expect an answer verbal or written.

With perfect respect, etc.

TO THE PRESIDENT [2]

[James Monroe]

Washington, 30th August, 1820.

Dear Sir:

. . . . . .

I had an interview yesterday with Mr. Correa, the Portuguese Minister, according to his request. He strongly urged the proposal contained in his note which I forwarded to you, for the appointment of commissioners to investigate the complaints of Portuguese subjects, owners of vessels and cargoes taken by privateers fitted out in our ports, and chiefly offi-

[1] Bernardo O'Higgins (1778–1842), ruler of Chile.

[2] Adams, *Memoirs*, August 29, 1820.

cered and manned by citizens of the United States. I suggested to him that there were difficulties opposed to the appointment of such a commission. That it would be in its nature a judicial tribunal. That the constitution and laws of the United States had already provided tribunals for the trial of all such cases as could be brought before such a commission. That if there had been any misconduct in the judges of the existing courts, they were liable themselves to trial by impeachment; but that it was hardly to be expected commissioners should be appointed to perform the duties of those judges without any allegation of complaint against them. He insisted that it was impossible for Portuguese subjects to obtain justice from our courts as now constituted.[1] That to impeach and remove the judges would be no satisfaction, if it could take place. That whether they should be impeached and punished was for the exclusive consideration of this government itself. But what Portugal had a right to claim was indemnity for the wrongs of her subjects committed by citizens of the United States. It was notorious that great numbers of Portuguese subjects had been ruined by these depredations, and that at the very moment when the message of the President at the commencement of the last session of Congress was sent to that body, there were seven privateers in the port of Baltimore,

[1] "I do not recollect any previous example of an attack on the integrity, as this seems to be, of the judiciary, of any power by a foreign minister. The error and inconsistency of judicial decisions with the law of nations may fairly be urged as a cause of complaint against the government; but beyond the government I do not think that the minister has a right to go. The government is responsible to foreign powers for the conduct of the court; the court is responsible to the nation for any misconduct, fairly imputable to it, in a constitutional way. If the Portuguese minister has erred in this respect, he will have no right to complain, if it should be adverted to in a suitable way in the close of the correspondence." *Monroe to Adams*, September 4, 1820. Ms.

known to be privateers waiting only for a wind to sail. These things had produced such a temper both in Portugal and in Brazil against the people and government of the United States that he was unwilling to tell me the proposal which had been formally made in the king's council concerning them. That five or six years ago the people of the United States were the nation of the earth for whom the Portuguese felt the most cordial regard and friendship. They were now those whom they most hated, and if the government had considered the peace of the two countries as at an end, they would have been supported in the declaration by the hearty concurrence of the people. That if no other consequence should follow from this disposition, commercial restrictions would be certain. That if the feelings of resentment should remain unallayed, and should even not disclose themselves in overt acts at present, they would *rankle* and occasions always present themselves in a course of time when they may produce effect. The desire of the king was to be upon good terms with the United States, but the property of his subjects was robbed upon the high seas by pirates sallying from the ports of the United States, without the trouble to assume a disguise. This practice was continued year after year, in the midst of professions of friendship from the American government. It was impossible that he should put up with it. I told him that you would take the proposal into the most serious consideration, but probably would come to no final determination until after returning to this city and consulting the members of the administration, after which I should answer his note. He said he should be obliged to embark in the course of next month for Rio de Janeiro, but should present Mr. Amado as chargé d'affaires, and the answer might be transmitted through him.

The enclosures herewith are a letter and a recommendation

to mercy in behalf of W. Cornell, from one or two of the jurymen by whom he was tried, and a second letter from Mr. Byers to General Parker concerning the new discovered island in the South Seas.

I am, etc.

TO THE PRESIDENT

[James Monroe]

Washington, 8 September, 1820.

Dear Sir:

I now enclose a dispatch from Mr. Gallatin, No. 151 of 11 July, with a note which he had already addressed to Baron Pasquier concerning the extra duties on both sides in the navigation between the United States and France.[1] It appears from his letter that he was doubtful whether they would enter into a negotiation with him at all, but that as soon as the Legislative Assemblies should rise, the king would lay a duty of 100 francs a ton upon American vessels which shall have entered the French ports after the first of July. There will be very few, if any, of them, for such a measure was apprehended by our merchants after the act of Congress passed, and scarcely any vessel went. Their numbers had been declining every year, I might say almost every month, and another year of the French system unresisted would have excluded them almost as effectually as the hundred francs tonnage duty. If after laying this new tonnage duty they decline negotiating, there will be neither French nor American vessels in the trade, which will all be carried by

[1] Adams, *Memoirs*, September 5, 1820. Gallatin's letter is in Adams, *Writings of Gallatin*, II. 150.

the English. I regret the publication of parts of Mr. Gallatin's letters, as they may affect his personal consideration there. But they were necessary to justify the act of Congress and the nation.[1] It is proper to observe to you that, excepting with regard to the question of special privilege in Louisiana, I have neither sent nor drawn up the *special* instructions concerning the negotiation which Mr. Gallatin expects. Indeed they could not be prepared without particular directions from you, nor probably without a general consultation of the members of the administration by you. The general principles which we proposed were reciprocity of equal duties, as in our convention with Great Britain. But there were

1. The above mentioned Louisiana privilege question.
2. The restoration of deserting mariners.
3. The consular convention.
4. The claims of our citizens for indemnities.
5. The question about the brokers at Havre.
6. Questions about the admission of our cotton and tobacco upon favorable terms in France.

On all of which it has been impossible for me to send detailed instructions, until the principles on which they were to be predicated should be settled by you. Concluding that this could not be done in the dispersion of the summer months I have not attempted to draft those special instructions for the formation of a treaty, and I have trusted they would be in time, after we should know that the French government would negotiate. I now mention these particulars, that you

[1] The French government, wrote Gallatin, "were already irritated, and will be more so with those sentences in my correspondence in which I suggest that they will do nothing unless compelled by our acts. . . . I fear that the expressions in question will wound the pride of government, and I wish they had been omitted in the publication."

may revolve them in your mind and determine what course with regard to them you will think best to take in the draft of special instructions for negotiation.

If they lay the hundred franc tonnage duty, which it seems the king does not venture to propose to the chambers, and cannot do of his own authority while they are in session, after having gratified their spleen, I suppose they will begin to think of coming to terms, and if so, it will be important that Mr. Gallatin should be instructed upon all the points above noted, and perhaps some others.

With perfect respect, etc.

TO THE CHEVALIER CORREA DE SERRA [1]

DEPARTMENT OF STATE,
WASHINGTON, 30 September, 1820.

SIR:

The proposal contained in your note of the 16th of July last has been considered by the President of the United

[1] "On further consideration of the temper manifested by Mr. Correa in your last conference with him [*Memoirs*, August 29, 1820], I am led to presume that when he wrote you the letter from Philadelphia, proposing the institution of a board to liquidate the claims of Portugal against the United States, he was altogether ignorant of the correspondence between Mr. Jefferson and Mr. Hammond in the commencement of the French revolution, and that the change in his tone was produced by the information given him on that subject, and the opinion expressed on his proposition by his friend in the country. I have no doubt that had he had the advantage of that communication before he wrote his letter, he would not have written it. If this presumption is well founded, it is very natural that he should be willing to withdraw himself from the discussion and leave it to his successor. The demand by him will, I fear, lay the foundation for Spain to make a similar one, and in case it be not granted, to refuse to pay us the five millions which she has already admitted to be due. If he has not sailed, I think it would be advisable for you to reject the proposition as utterly inadmissible on principle, and particularly unreasonable in his case from the amendment of the law respecting our neutrality

States with all the deliberation due to the friendly relations subsisting between the United States and Portugal, and with the disposition to manifest the undeviating principle of justice by which this government is animated in its intercourse with all foreign governments, and particularly with yours. I am directed by him to inform you that the appointment of commissioners to confer and agree with the ministers of his Most Faithful Majesty upon the subject to which your letter relates, would not be consistent either with the constitution of the United States, nor with any practice usual among civilized nations.

The judicial power of the United States is by their constitution vested in their Supreme Court, and in tribunals subordinate to the same. The judges of these tribunals are amenable to the country by impeachment, and if any Portuguese subject has suffered wrong by the act of any citizen of the United States, within their jurisdiction, it is before those tribunals that the remedy is to be sought and obtained. For any acts of citizens of the United States committed out of their jurisdiction and beyond their control, the government of the United States is not responsible.

To the war in South America, to which Portugal has for several years been a party, the duty and the policy of the United States have been to observe a perfect and impartial neutrality. The government of the United States has neither countenanced nor permitted any violation of that neutrality by their citizens. They have by various and successive acts

obtained by him, and his knowledge of our efforts to prevent its abuse, as declared by himself." *Monroe to Adams*, September 25, 1820. Ms. It was with reluctance that Adams carried out these suggestions of the President, believing that "we have something to answer for to Portugal in this case on the score of justice, and that we shall answer for it, soon or late, by our own sufferings. I reluct at the idea of supporting our cause upon the weakness or maladdresse of the adversary's counsel." Adams, *Memoirs*, September 26, 1820.

of legislation manifested their constant earnestness to fulfil their duties towards all the parties to that war, and they have repressed every intended violation of them which has come to their knowledge, and punished every transgression of them which has been brought before their courts and substantiated by testimony conformable to principles recognized by all tribunals of similar jurisdiction.

But I am instructed to request that you would furnish me with all the documents upon which the complaints in your notes of the 16th of July and 26th of August are founded; as well relating to the vessels mentioned in the former, as to the naval officers in the service of the United States, and to the judges whom in the latter you accuse of having in your belief disgraced the commissions which they bear. And I am further commanded to assure you that if these documents shall be found to contain evidence upon which any officer, civil or military of the United States, or any of their citizens, can be called to answer for his conduct as injurious to any subject of Portugal, every measure shall be taken to which the executive is competent, to secure full justice and satisfaction to your sovereign and his nation.

I pray you to accept, etc.

TO ALBERT GALLATIN

Department of State,
Washington, October 4, 1820.

Sir:

I have had the honor of receiving your dispatches Nos. 155, 156 and 157, with their enclosures. The preceding numbers subsequent to 151 have not yet come to hand. Your letter enclosing the two ordinances of the King of France, of 24

July, laying an additional tonnage duty of ninety francs per ton upon American vessels, and securing a bounty of ten francs for 100 kilogrammes upon cotton imported from any part of America out of the United States in French vessels, is, of course, among those not yet received, but the ordinances themselves have appeared in our public journals.

The effect of the French *indirect* tonnage duties upon articles of our produce, carried to France in our own vessels, before the act of Congress of 15 May last, was a gradual total exclusion of our vessels laden with any of those productions. This exclusion was taking place so rapidly that from the experience of its operation as now ascertained, as well as from the apparent deduction which must necessarily follow from the excessive burden of the discriminating duties upon our shipping, there is no doubt it would have been before the lapse of another year complete. It was taking place in a manner the most injurious to us both nationally and individually considered — disguised under the form of a duty of trifling amount upon the articles of merchandise and not upon the tonnage, the operation of the duty became sensible only by the ruin that it brought upon those of our merchants who adventured in the trade. It had been thus circulating like a poison in the veins of our commerce with France many months before it was discovered; and when detected in the heavy losses incurred by individuals, still remained but partially known, until the disastrous issue of every voyage to France exhibited its course so generally that at the last session of Congress, besides the information received from you, memorials from the chambers of commerce of New York and Philadelphia stated to that body the injuries which had already been sustained by these enormous charges of France, pointed out the consequences which must follow, unless some counteracting measure should be taken, and

called for some act of the legislature for the protection of their interests and those of the country perishing under the pressure of these insupportable charges. . . .

Upon every calculation which can be made the result was the same. The French surcharges were a *prohibitory* duty upon American shipping; and they were just so much worse than would have been a positive and express prohibition, as a slow and torturing death is worse than extinction at a sudden stroke. They left hope, and enterprise, and unwary ardor to pursue their speculations, until they found their inevitable termination in ruin. Such was the *necessary* operation of the French surcharges upon our merchants. What was the operation of ours upon the merchants of France? You have stated them after the fact in your letter of 31 July. The French shippers were making rapid fortunes upon the same trade by which ours were rushing to destruction. Our surcharges were to the French shipper absolutely nothing; for under them he was sure of making a profitable voyage. The French surcharges upon ours were invariably oppressive, the voyage without exception disastrous. That they did persist in fitting them out was so much the worse for themselves and their country. If instead of laying a countervailing tonnage duty, Congress had passed an act prohibiting the exportation of our own produce in our own vessels to France, from the commencement of the present year, every shipper in the United States who has sent an American vessel laden to France would have been saved a heavy loss. In this point of view, and it is believed a just one, the French surcharge is a whole amount from which no deduction ought to be made: and for this the tonnage duty of ten dollars a ton was not even an equivalent.

The tonnage duty levied upon French vessels by the act of Congress of 15 May was also *prohibitory;* but it was direct,

and gave notice of itself. If the shortness of time between its passage and the commencement of its operation could be objectionable elsewhere, you have shown that it could not be to the French government, who are in the habitual practice of levying increased duties without giving any previous notice to those from whom they are to be exacted.

Prohibitory duties existing in both countries against the admission of the shipping of the other, the material question to be settled is what shall be done.

The proposal of the United States is, as it has been, perfect reciprocity — the principles of our convention with Great Britain. The proposal of Baron Pasquier is, that, without a treaty, the duties of each of the two countries upon the navigation of the other should be so adjusted that the benefit of freighting should be shared in equal proportions by the shipping of both.

To this proposal we cannot accede.

First. Because it supposes an agreement to be binding on the two governments without treaty or convention. We are not aware how such an agreement could be made.

Second. Because it supposes that this informal agreement shall be binding on the *legislatures* of both nations. The executive of the United States has no power to make such a compact.

Third. Because the principle itself of the arrangement is inadmissible. It calls upon us to consent that our shipping should bear one-half the burdens which France by her regulations thinks proper to impose upon her own. If we lay no such onerous burdens upon our own shipping interest, it is not to be expected that we shall submit to have them laid upon it by a foreign power. The shipping of France in fair competition with ours has the great advantage of cheaper outfits and a lower rate of seamen's wages. If, not-

withstanding that, the French shipping cannot stand the competition with ours, the remedy for France is to remove the burden from her own shippers which she has laid upon them, and not to ask us to assist her in laying half of it upon ours.

With regard to the claim of special and unconstitutional privileges for the vessels of France in the ports of the state of Louisiana, the pretension is utterly unfounded. I have already written to you upon this subject, and now enclose copies of Mr. de Neuville's two letters to me concerning it, and of my answer to the first of them. The reply contains no new argument. The pretension that France has any claim of right whatever in the ports of Louisiana, one of the states of the American Union, which she has not in the other states, is not only without any support from the treaty of cession, but is in direct contravention to it.

The claim which Baron Pasquier advances of a *right* to the assistance of this government in arresting and transporting to the French vessels in our ports seamen deserters from them, is equally unfounded. No such right is recognized by the laws of nations. If France by her municipal ordinances restores all deserting seamen to their vessels, it gives her no right to claim the same restoration from others. France, you know, has *refused* to deliver up a seaman, not merely a deserter from a vessel of the United States, but charged with murder and robbery committed in her; not indeed in a port of France, but at sea. The *principle* upon which she gave this refuge to the robber and murderer of the *Plattsburg* applies with double force to the case of seamen guilty at the worst of nothing more than a breach of contract. We do not complain of this refusal of France, but we say its principle leaves her not the shadow of a claim to the restoration of deserters as a *right*.

The President is nevertheless willing that you should agree to an article of a convention stipulating the delivery of deserting seamen. The ninth article of the old consular convention of 14 November, 1788, may serve as a model. But we can make such an engagement no otherwise than by convention; and far from conceding it as a right, we consider it as giving us a just claim to a valuable equivalent in some other article. At least to the reciprocity of equal duties. We know that the reciprocity in the article itself will in point of fact yield us nothing. If it were not already a general internal municipal regulation of France, our ship-owners and masters of vessels would not need it. Our seamen have no temptation to desert in France. What should induce them to desert? Lower wages? A strange language? Shackles upon their personal freedom? The article, therefore, will be of no beneficial use to us. The concession is all *from* us, the reciprocity is merely formal. The solid benefit to France of the stipulation may be estimated by the eagerness with which her ministers call for it. We return for it nothing but reciprocity in the article of duties.

To the proposal of Baron Pasquier it may be sufficient to answer that the President can bind the faith of this nation upon either of these articles, no otherwise than by stipulations in form, subject to the constitutional sanction of the Senate.

He has noticed with regret the insinuations which were made in your conference with Baron Pasquier and the Duke de Richelieu; that for the success of their recent measures the French government rely upon supposed collisions of interest between the citizens of different portions of the Union. Such insinuations are not matter of argument; they must receive their answer from time. He regrets them because they may be imputed to a spirit neither amicable nor

conciliatory, the existence of which he has not suspected, and because they are not reciprocal to those which he has felt, and would fain yet feel towards France. Had her recent ordinance been merely retaliatory, however unjust and injudicious it might have appeared, there might have been found some apology for it in the irritation of momentary feeling. But France had in substance excluded American laden shipping from her ports before. A hundred francs of additional tonnage duty could do no more. But the premium for South American cotton over that of the United States, *indirectly* given in the second ordinance, and the temptations held out to citizens of the United States to violate or evade the law of their country by shipments to Florida or the West Indies, indicate a spirit neither warranted by any thing done on the part of the United States, nor calculated to promote or encourage the friendly feeling which under every vicissitude they have cherished towards France. Should the policy of that country, however, find its account in the mutual exclusion of each other's ships from the carriage of the commerce between them, the consolation will remain to us that while France was the first to commence this unexpected course of policy, so we shall be ever ready to welcome her recovery from it to what we deem sounder and juster views not only of our interests but of her own. I am, etc.

TO HENRY MIDDLETON

DEPARTMENT OF STATE,
WASHINGTON, 6 November, 1820.

SIR:

I have to acknowledge the receipt of your despatches Nos. 1 and 2 from London with their enclosures. By a letter since received from Mr. Rush I have learnt that you left London on the 20th of September, and I trust that you have by this time safely arrived at St. Petersburg. The course of your negotiation at London, merely with a view to settle the mode in which the subject of the controversy relating to the slaves should be brought before the Emperor, has sufficiently shown the obstacles which will beset every part of its progress. The pretension that the United States should be limited to the claim of indemnity for one list furnished of slaves taken from Cumberland Island alone, was so extraordinary that I should scarcely have believed it possible that it should have been advanced. The proposal that if the award should be in our favor, a certain sum should be settled, to be paid for every individual carried away was more reasonable, and if the British government should be so inclined, might *be agreed* between you and Mr. Bagot, without referring it either to the Emperor, or to the commission. I will at an early day write you further on this subject.

It was precisely from a desire, if possible, to narrow down the part of the Emperor as umpire to a mere opinion of the just construction of the treaty, that you were authorized to confer with the British government, and ascertain whether they were prepared, if the decision should be in our favor, to carry it into effect without starting other questions, which might as effectually defeat our claim with a decision that

it is just, as if the award should be against us. The result has been to show that it will be highly important to reserve every question that can arise till full performance of the award for the eventual decision of the Emperor. We give full credence to the declaration of Lord Castlereagh, that his personal dispositions would be to carry into immediate execution the determination, if it should be in our favor, and that he would afford every facility depending upon him for that purpose. But as the whole subject is submitted to the Emperor by the convention, the most effectual security that we can have, for agreeing with Great Britain upon the means of execution, will be by retaining the right to have them also in case of disagreement settled by the arbitrator.

In the statement of the British ground of argument upon the claim in the submission, they have broadly asserted the right of emancipating slaves, private property, as a legitimate right of war. This is utterly incomprehensible on the part of a nation whose subjects hold slaves by millions, and who in this very treaty recognized them as private property. No such right is acknowledged as a law of war by writers who admit *any* limitation. The right of putting to death all prisoners in cold blood and without special cause might as well be pretended to be a law of war; or the right to use poisoned arrows, or to assassinate. I think the Emperor will not recognize the right of emancipation, as legitimate warfare; and am persuaded you will present the argument against it in all its force, and yet without prolixity.[1]

I am, etc.

[1] In the decision of the Emperor no judgment was rendered on this point: "The Emperor . . . does not think himself called upon to decide here any question relative to what the laws of war permit or forbid to the belligerents," and rested solely on the "grammatical interpretation" of the article of the treaty. Moore, *International Arbitrations*, I. 362.

TO STRATFORD CANNING [1]

DEPARTMENT OF STATE,
WASHINGTON, 30 December, 1820.

SIR:

I have had the honor of receiving your note of the 20th instant, in reply to which I am directed by the President of the United States to inform you that, conformably to the assurances given you in the conversation to which you refer,[2] the proposals made by your government to the United States, inviting their accession to the arrangements contained in certain treaties with Spain, Portugal and the Netherlands, to which Great Britain is the reciprocal contracting party, have again been taken into the most serious deliberation of the President, with an anxious desire of contributing to the utmost extent of the powers within the competency of this government, and by means compatible with its duties to the rights of its own citizens, and with the principles of its national independence to the effectual and final suppression of the African slave-trade.

At an earlier period of the communications between the two governments upon this subject, the President, in manifesting his sensibility to the amicable spirit of confidence with which the measures concerted between Great Britain and some of her European allies had been made known to the United States, and to the free and candid offer of admitting the United States to a participation in those measures, had instructed the minister of the United States residing near your government, to represent the difficulties resulting

[1] Stratford Canning, first Viscount Stratford de Redcliffe (1786–1880), first cousin of George Canning. He arrived in Washington, September 28, 1820.

[2] Adams, *Memoirs*, October 2, 20 and 26; December 23 and 30, 1820.

as well from certain principles of international law, of the deepest and most painful interest to these United States, as from limitations of authority prescribed by the people of the United States to the legislative and executive depositaries of the national power, which placed him under the necessity of declining the proposal. It had been stated that a compact giving the power to the naval officers of one nation to search the merchant vessels of another, for offenders and offence against the laws of the latter, backed by a further power, to seize and carry into a foreign port, and there subject to the decision of a tribunal composed of at least one-half foreigners, irresponsible to the supreme corrective tribunal of this Union, and not amenable to the control of impeachment for official misdemeanor, was an investment of power over the persons, property, and reputation of the citizens of this country, not only unwarranted by any delegation of sovereign power to the national government, but so adverse to the elementary principles and indispensable securities of individual rights interwoven in all the political institutions of this country, that not even the most unqualified approbation of the ends, to which this organization of authority was adopted, nor the most sincere and earnest wish to concur in every suitable expedient for their accomplishment, could reconcile it to the sentiments or the principles of which in the estimation of the people and government of the United States no consideration whatsoever could justify the transgression.

In the several conferences which since your arrival here I have had the honor of holding with you, and in which this subject has been fully and freely discussed between us, the incompetency of the power of this government to become a party to the institution of tribunals organized like those stipulated in the conventions above noticed, and the incompatibility of such tribunals with the essential character of

the constitutional rights guaranteed to every citizen of the Union, have been shown by direct references to the fundamental principles of our government; in which the supreme, unlimited, sovereign power is considered as inherent in the whole body of its people, while its delegations are limited and restricted by the terms of the instruments sanctioned by them, under which the powers of legislation, judgment and execution are administered; and by special indications of the articles in the constitution of the United States which expressly prohibit their constituted authorities from erecting any judicial courts by the form of process belonging to which American citizens should be called to answer for any penal offence without the intervention of a grand jury to accuse, and of a jury of trial to decide upon the charge. [It has been shown that the trial of an American citizen for offences against the laws of his country, not by a jury of his peers and neighbors, but in a foreign land, by judges and arbitrators strangers both to him and his country, would be a subversion of these liberties to which in our estimation life itself is an object of secondary consideration; and that to be made amenable to tribunals thus constituted would be as repugnant to the general feelings and principles of this nation as to the express letter of several articles of their constitution.] [1]

But while regretting that the character of the organized means of coöperation for the suppression of the African slave-trade, proposed by Great Britain, did not admit of our concurrence in the adoption of them, the President has been far from the disposition to reject or discountenance the general proposition of concerted coöperation with Great Britain to the accomplishment of the common end, the suppression of the trade. For this purpose armed cruisers

[1] The sentence in brackets was struck out.

of the United States have been for some time kept stationed on the coast which is the scene of this odious traffic, a measure which it is in the contemplation of this government to continue without intermission. As there are armed British vessels charged with the same duty constantly kept cruising on the same coast, I am directed by the President to propose that instructions, to be concerted between the two governments with a view to mutual assistance, should be given to the commanders of the vessels respectively assigned to that service. That they may be ordered, whenever the occasion may render it convenient, to cruise in company together, to communicate mutually to each other all information obtained by the one, and which may be useful to the execution of the duties of the other; and to give each other every assistance which may be compatible with the performance of their own service, and adapted to the end which is the common aim of both parties.[1] [It is hoped that by these means the flag of the United States may be effectually shielded from the disgrace of screening the slave trader from punish-

[1] Canning, in transmitting this note to Castlereagh, expressed his concern that the British proposals were not accepted, but added: "I sincerely hope that the counter proposal contained in the latter part of Mr. Adams's note, for the purpose of establishing a system of coöperation, grounded on common instructions, between his Majesty's cruisers and those of the United States, employed on the African coast, may be found worthy, on examination of being carried in effect. An opening once made, it may perhaps be found practicable at a later period to improve it into some arrangement more nearly approaching to that which has been offered by his Majesty's government. Your Lordship may be assured in the meantime that I shall endeavor, as opportunities arise, to encourage whatever disposition may exist in the House of Congress to favour the establishment of a more substantial coöperation on this head between the two countries; but I see no advantage likely to result from my pursuing for the present a further correspondence on this subject with the Secretary of State." *Canning to Castlereagh*, January 2, 1821. Castlereagh feared the American proposal would be "in its operation wholly inefficient as to the object, and can never be considered in the light of a substitute" for that made by Great Britain. See Adams, *Memoirs*, January 2, 1821.

ment without *subjecting the standard of this nation to the humiliation of witnessing the search by a foreign officer of an American vessel, for transgressors of American laws; to be tried and doomed by the decision of foreign arbitrators and judges.*[1]

The President is further disposed, should it be satisfactory to your government, to stipulate by a convention the number of cruisers to be kept stationed on the African coast by both parties, and the time during which and latitudes within which they shall cruise, with a view to the end to be accomplished by these concurrent operations.] [2]

These measures congenial to the spirit which has so long and so steadily marked the policy of the United States in the vindication of the rights of humanity will, it is hoped, prove effectual to the purposes for which this coöperation is desired by your government, and to which this Union will continue to direct its most strenuous and persevering exertions.

I pray you, etc.

TO GEORGE SULLIVAN

WASHINGTON, 20 January, 1821.

DEAR SIR:

I have duly received your favor of the 11th instant, with a copy of Mr. Webster's report to the convention,[3] concerning the University at Cambridge, and of the discussion of the question, who are now the rightful Overseers of Harvard College?

[1] For the words *italicised* the following were substituted: "incurring the inconveniences which seem to be inseparable from the other course of proceeding."

[2] The sentences within brackets were struck out.

[3] For framing a new constitution for Massachusetts.

My sentiments with regard to that institution have uniformly been those of the most ardent attachment and the deepest reverence. Indebted to instruction there received for a large portion of the intellectual faculties which I consider as the most precious of worldly possessions, and to the friendships there formed for many of the most pleasing recollections that have accompanied me through life, indebted to its government for the first introduction to the notice of my fellow citizens, and for some of the dearest distinctions ever conferred upon me, my affection and gratitude have been further stimulated by the remembrance that the same institution has been for ages a fountain unexhausted of the same blessings to my forefathers of five generations, and by the hope that it will be alike beneficial of good to my children and with the blessing of Providence to theirs.

With these impressions I have sincerely lamented the discordance of opinions respecting the organization and management of the college government, indicated by the successive changes in it prescribed during the last ten years by the legislature of the state. Of the merits of those changes, however, my situation has not permitted me to obtain that thorough knowledge which would alone warrant me in forming and expressing an opinion. I have sorrowed over changes which I feared might be traceable to political prejudices, or to the spirit of sectarian proselytism; but I have fondly hoped that through all these changes the essential character of the institution as a seminary of wisdom and virtue would remain unimpaired, and I have felt that the first of all events in the sanctuary of the Muses is *peace*.

It neither has been, nor is now in my power, critically to examine the decision of the Supreme Court of the United States in the Dartmouth College case, nor to investigate its bearings upon the question discussed in your pamphlet.

The reasoning of the counsellor at law has the appearance of sound argument, but I should wish to hear the other side, before I could make up a definite opinion upon it, and even then I might hesitate at the ulterior question, whether in this case it could not be more conducive to the public weal to endure the wrong than to extort the right? [1]

With regard to religious opinions, I have felt it my duty to make up my own upon the light of such evidence as perhaps too busy a life has allowed me to obtain. I have sought that evidence rather in the text of the Scriptures than in the glosses or the disputes of commentators, and I have drawn my conclusions rather from the operations of my own mind than from the argumentations of others. The result has been that there is no denomination of Christians with whose devotions I cannot cheerfully associate, and none to whose peculiar doctrines I can conscientiously subscribe. I have followed with very imperfect and much interrupted attention the progress of the Unitarian controversy which has been for some years maintained with so much zeal and ability on both sides in our country. Of what I have seen it appears to me that as a question upon the meaning of certain passages of Scripture, the disputants on each side have been more successful in combating the doctrines of their adversaries than in maintaining their own. I consider it as an unprofitable controversy. The only importance of religion to my mind consists in its influence upon the conduct; and upon the conduct of mankind the question of Trinity or Unity, or of the single or double personal nature of Christ, has or ought to have no bearing whatsoever.

[1] Sullivan claimed that Webster sought to confirm by constitutional provision the law framed by Parsons in 1810, reënacted in 1814, the intention of which was to make the University "a powerful engine in the hands of politicians and polemical divines."

I am sorry to learn that you have met with any opposition from the Unitarians in the establishment of the Episcopal Church of which you have become a member. There seems to be an excess of zeal among the younger partisans of the Unitarian creed, but it may perhaps be attributed to the impression that they are themselves persecuted. Religious liberty for ourselves, religious salvation for the opinions of others, are the only doctrines which I deem essential to all, and the only creed which I earnestly hope may become universal.

Lest you should possibly prefer to this long letter a short and explicit answer to your inquiry, I conclude with the remark that my distance from the scene, and my inability to make myself thorough master of the merits of the college question, forbid my taking part in a dispute upon which I should be afraid of performing only the part of chaos,

"And by decision more embroil the fray."

I am, etc.[1]

[1] On January 26 a sharp encounter between the Secretary of State and the British Minister occurred on the subject of settlements on the Columbia River. Adams has recorded in his *Memoirs* (V. 243) the interview, and Canning in a dispatch to Castlereagh showed the effect produced upon him. His biographer wrote: "Lord Castlereagh — or the Marquis of Londonderry as he had then become — decided to let the matter drop, and Canning himself acknowledged that there were faults in his own manner of raising the question." Lane-Poole, *Life of Stratford Canning*, I. 308. Of Adams Canning wrote in his "Memoirs," compiled in part after he had entered his ninety-third year: "Mr. Adams was naturally the official of whom I saw most. He was more commanding than attractive in personal appearance, much above par in general ability, but having the air of a scholar rather than a statesman, a very uneven temper, a disposition at times well-meaning, a manner too often domineering, and an ambition causing unsteadiness in his political career. My private intercourse with him was not wanting in kindness on either side. The rougher road was that of discussion on matters of business. The irritation of a sensitive temper had much to excuse it in the climate. . . . Under much waywardness on the surface there lay a fund of kindly and beneficent intentions which ought to go down the stream of time with the record of his life and characteristic

TO RICHARD RUSH

DEPARTMENT OF STATE,
WASHINGTON, 6 February, 1821.

SIR:

Among the documents published in the files of the *Intelligencer*, which will be transmitted to you by this opportunity, you will observe two messages from the President to the House of Representatives, communicating in answer to a call from them the correspondence which has taken place with the British government relative to the suppression of the slave-trade.

From the zeal and earnestness with which Mr. Canning since his arrival here has pressed the proposal of the British government that we should accede to the mutual right of search and anomalous tribunals of their treaties with Portugal and the Netherlands, it would seem that they had not in any adequate manner understood the force and insuperable character of our objections to that proposal. Mr. Canning urged and reiterated the wishes of his government on the subject until it became necessary to manifest a concern [1] which we had at every previous stage of this negotia-

qualities." *Ib.* Adams' opinion of Canning is in his *Memoirs*, June 24, 1823. Of it Lane-Poole says: "For an opponent the judgment is singularly just and clear-sighted."

[1] The draft read "a feeling on the protracted and persevering efforts to obtain our acquiescence in measures, not less odious to us than the slave-trade itself." On this Monroe wrote, suggesting the word "concern" for "feeling" and added: "I think it probable that *all* that may be written on the subject will come before the public, and as Mr. C[anning] may make representations to his government of what passed in late interviews, corresponding with the temper which he indicated in them, which may, connected with the interfering claims of the two governments, finally produce some unpleasant results, it seems advisable to be on our guard not to furnish them with any pretext for improper conduct." *Monroe to Adams*, February 3, 1821. Ms.

tion from motives of conciliation anxiously endeavored to avoid. From the first moment that this proposal had been suggested to us, there had been neither doubt nor hesitation shown in our manner of receiving it. The nature of our objections had been disclosed in terms as explicit and with a purpose as obviously fixed as we thought candor to require and good humor to permit. In the discussion with Mr. Canning his tenacious adherence to the expedient which had been so unequivocally and repeatedly declined by us elicited remarks upon the character of that expedient, and its close analogy to the causes of our late conflict with Great Britain, which, though deemed indispensable, were very reluctantly made.

He has expressed some sensibility at the publication of the instructions to Mr. Gallatin and you, and of your letter to me alluding to the speech of Lord Castlereagh in Parliament.[1] The necessity for the communication to the house and consequent publication of those documents with the others arose from the feeble impression which the direct correspondence between the two governments was found to have made upon the minds of the British cabinet in their estimate of our sentiments upon the main proposition. It is not supposed probable that the British government will renew the same proposal, but if any intimation of such an intention should be suggested to you, candor will require that with everything conciliatory in the manner, you should leave no sort of doubt upon the substance of the President's determination, but let it distinctly be understood that the right of mutual search can, on our part, under no circumstances whatsoever be admitted.

You will observe that as a substitute for this proposal we have offered a concert of operations between the armed

[1] Adams, *Memoirs*, January 9, 1821.

vessels of the two nations stationed upon the coast of Africa, for the suppression of the slave-trade. This concert, it is believed, may be effected without a formal convention, but by instructions to be given on both sides to the commanders of the vessels. Such instructions will be given to our officers employed on that service, in general terms and with a discretionary power to apply them in such a manner as their experience may point out as best adapted to the attainment of the end. In the course of the last year four vessels engaged in the trade have been captured by our cruisers, sent into our ports and condemned. There is good reason to expect that the measures which have been taken, and will be perseveringly pursued by this government for the execution of the laws, will effectually suppress the abuse of the flag of the United States to cover a traffic which has incurred the general indignation of mankind. I am, etc.

TO DON FRANCISCO DIONISIO VIVÉS [1]

DEPARTMENT OF STATE,
WASHINGTON, 28 February, 1821.

SIR:

I have submitted to the consideration of the President of the United States the observations which, in conformity to the instructions of your government, were verbally made by you at the conference which I had the honor of holding with you, when you notified me of your readiness to exchange

[1] Printed in *American State Papers*, Foreign Relations, IV. 703. The treaty, ratified by Spain, reached Washington February 10, though the Cortes had acted in November. The bearer of the treaty sailed from Bordeaux and after a passage of eighty-eight days landed at Wilmington, Delaware. Vivés had his conference with Adams on the 12th. No reply to his observations was made until the end of February. Adams, *Memoirs*, February 12 and 28, 1821.

the ratifications of the treaty of 22 February, 1819, between the United States and Spain.

With regard to the omission on the part of the Spanish negotiator of the treaty, to insist upon some provision of indemnity in behalf of Spanish claimants to whom a pledge of such indemnity had been stipulated by the previously ratified convention of 1802, an omission stated by you to have been peculiarly dissatisfactory to the Cortes, I am directed to observe, that as in all other cases of the adjustment of differences between nations, this treaty must be considered as a compact of mutual concessions in which each party abandoned to the other some of its pretensions. These concessions on the part of the United States were great; nor could it be expected by the Spanish nation that they would be obtained without equivalent. Probably the Spanish negotiator considered the claims of Spanish subjects embraced by that convention as so small in amount, as scarcely to be worthy of inflexible adherence to them. He certainly considered the whole treaty as highly advantageous to Spain; a sentiment in which the government of the United States always entirely participated, and still concurs.

This also furnishes the reply which most readily presents itself to the proposition which you have also been instructed to make, that some compensation should be allowed by the United States for the benefit of the grantees of lands, recognized by the treaty to have been null and void. While appreciating in all its force the sense of justice, by which after the maturest deliberation and the fullest examination, the Cortes have declared that those grants were so, as at the signature of the treaty they had been clearly, explicitly and unequivocally understood to be, by both the plenipotentiaries who signed it, the President deems it unnecessary to press the remark which must naturally present itself, that to

grantees whose titles were in fact null and void, and by all parties to the negotiation were known to be null and void, no indemnity can be due, because no injury was done. Nor can it be admitted that this is one of the cases of misunderstanding from which the grantees could be entitled to the benefit of a doubtful construction. The construction of the article was in no wise doubtful. For any construction which would have admitted the validity of the grants, would have rendered impossible the fulfilment of other most important stipulations of the treaty.

The discussion of this subject having already been a subject of correspondence between the minister of foreign affairs of your government and Mr. Forsyth, could now be continued to no profitable purpose. I take much more satisfaction in assuring you of the pleasure with which the President has accepted the ratification of the treaty as an earnest of that cordial harmony which it is among his most ardent desires to cultivate between the United States and Spain. This disposition he cherishes the hope will be further promoted by the community of principle upon which the liberal institutions of both nations are founded, and by the justice, moderation and love of order which they combine with the love and the enjoyment of freedom.

I pray you, etc.[1]

[1] The Secretary of State prepared the instructions for Major General Jackson, commissioner to receive possession of the Floridas, governor of the same, and commissioner "vested with special and extraordinary powers" to carry the stipulations of the treaty of cession into effect. These instructions and letters from Adams to Jackson during his governorship are in the *American State Papers*, Foreign Relations, IV. 750 *et seq.* Adams also prepared, for the House Committee on Foreign Relations, the minutes of an act for carrying the Florida treaty into execution; "which I did, combining the precedents of the Acts for taking possession of Louisiana with provisions for the establishment of the commission for claims." These minutes were returned to the Secretary of State with a request that he should draft a bill, which he did. Adams, *Memoirs*, February 26 and 27, 1821.

TO ALBERT GALLATIN [1]

DEPARTMENT OF STATE,
WASHINGTON, 31 March, 1821.

SIR:

The latest dispatches received from you are of 8 January, No. 170. The newspapers and public documents, which have since my last letter been forwarded to you, will have informed you of the final ratification of the Florida treaty, of the termination of the session of Congress, and of the second inauguration of the President.

The Baron Hyde de Neuville arrived here so shortly before the 4th of March, that had the prospects of a satisfactory commercial arrangement with him been more favorable than they were, it would scarcely have been possible to bring them to a close in time to have submitted the convention to the consideration of the Senate. It was very soon after his arrival perceived that the conjectures in your No. 169 were corroborated by every indication to be drawn from his course of proceeding. He began by manifesting a degree of irritation at the seizure of the *Apollon*,[2] for which neither the importance of the case, nor the circumstances which had attended it, appeared to call. Besides the claim to exclusive privileges for French ships, under color of the eighth article of the Louisiana cession treaty, he intimated *doubts* whether he could enter upon the discussion of merely commercial interests, until satisfaction should be given for this seizure of the *Apollon*, and for another vessel, the *Eugène*, which

[1] Adams, *Memoirs*, November 1, 1820; January 5, February 24.

[2] The draft of a letter to de Neuville in reply to his representations was returned by the President on March 29, with some suggested alterations. It is printed in *American State Papers*, Foreign Relations, V. 163, 650. See Adams, *Memoirs*, March 29.

had been required to depart from the same south side of St. Mary's River. He gave even some countenance to an idea which Mr. Roth,[1] in one of his written communications, had suggested with some hesitation: that the *flag* of France had in these cases been insulted. This manifest effort to give a coloring to those transactions entirely different from their real character could not but excite some surprise, until, in the course of the verbal discussion between us, he disclosed the fact that the French government had been consulted by some of their merchants to enquire whether this expedient to evade our tonnage duties would be effectual; and had been answered by his own advice, that it would be. It thus appears that the project of Captain Edou was part of a system which the French merchants would have found very convenient, had it succeeded, but which was altogether disconcerted by the seizure of the *Apollon*.

The Spanish minister, General Vivés, at the instigation of Mr. Roth, had also addressed notes of complaint for the alleged violation of the territorial rights of Spain by the seizure of the *Apollon*. Written answers to these notes had been delayed from an unwillingness to pursue, at the moment when the ratification of the Florida treaty was expected, a correspondence which necessarily required recrimination upon officers of the Spanish government; upon the governor of East Florida, for this establishment of a pre-

[1] On January 6 the Secretary of State wrote to Gallatin of a letter from Roth on the *Apollon* and *Eugène*, "expressed in terms so insulting to this government that it has required some forbearance to abstain from sending it back to Mr. Roth, with an intimation that its language forfeited all claim to an answer. In the hourly expectation of the arrival of Mr. Hyde de Neuville and the hope that with him the discussion may proceed in the spirit of conciliation which the President has not ceased to cherish in the conduct of our relations with France, he has directed me to overlook the character of these communications with Mr. Roth, so far as to confine to verbal conference with him the remarks to which they have necessarily given rise."

tended port where there was no town or settlement for trade, for purposes so obviously hostile to the United States; and upon the Spanish acting vice-consul at Savannah, whose purposes thus hostile were not merely to be inferred from his conduct in this transaction, but were explicitly avowed in letters written by himself, which had come to the possession of this government. The Baron de Neuville, after his arrival, urged again General Vivés to press his complaint; and since the exchange of the ratifications of the treaty an answer has been sent him, of which a copy is inclosed.

Copies are also now transmitted of the correspondence between the Baron and this department, both in relation to the claim under the eighth article of the Louisiana treaty, and to the cases of the *Apollon* and *Eugène*, to which a third case, that of the *Edmond*, Captain Mestre, has recently been added. This vessel, by a general order from the War Department issued shortly after Amelia Island was taken into our possession in 1817, could not have entered there with a cargo. It happened, very opportunely for her admission, that she touched on the bar at St. Augustine, had been only saved by unloading her cargo there, and then resorted in distress to Amelia Island to repair her damages. Admitted on the principle of humanity, the extreme good faith of Captain Mestre induces him to inquire of the French consul at Charleston, whether he can take in a cargo, to be carried to him there from the United States, without payment of any duties of entry. And the Baron has addressed two successive letters to this Department, reiterating that inquiry. These anxious exertions to interest the honor of the French flag, and the sanctity of the territorial immunities of Spain, in defense of gross and glaring projects of fraud upon the laws and revenue of the United States, portend a disposition little favorable to any arrangement upon principles of reci-

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procity. It is believed to be the first example of a government's being called upon by a foreign minister to mark the precise point to which the smugglers of his nation may venture, without danger of *being molested*. . . .[1]

TO RICHARD PETERS

WASHINGTON, 2 April, 1821.

DEAR SIR:

I have received a second letter from the poor man whom I mentioned to you here, and in whose favor you were kind enough to promise to take an interest. His name is *Duprê*, and he claims my good offices on the score of having thirty-five years ago purchased for me a foundered horse at New York. I have a distinct recollection of the horse and of the man, though I have never seen him since the time to which he refers, and his name had escaped my memory. He was then the *La Fleur* of Mr. Le Ray de Chaumont, with whom I travelled from New York to Boston. He is now in the almshouse at Philadelphia owing, as he says, to cramps and rheumatisms which have disabled him from acquiring subsistence by his own industry. His complaint is that by some new rule of discipline at the house he is restricted in the privilege of walking out which he enjoyed until lately, and that it debars him of exercise essential to his health.

I have so kindly a recollection of the man and of his services to me, both in the affair of the horse and upon the journey, that it would gratify me to be able to render him the service which he now requires of me. He is a Frenchman,

[1] Gallatin addressed a note to Baron Pasquier on the case of the *Apollon*, which is in Adams, *Writings of Gallatin*, II. 187. In a letter to Adams, July 2 (*Ib.*, 194), he raises some question on the argument advanced by the United States.

and of course delights in *glory*. He assigns this in his second letter as one of his reasons for applying to me, promising himself much glory by obtaining the indulgence for which he pleads from the interposition of the *Secretary of State*. I would willingly petition the managers of the almshouse in his favor, but as they might justly entertain different ideas from those of poor Dupré with regard to the interference of a Secretary of State in their concerns, I avail myself of your obliging offer to solicit in his behalf the permission of walking out at his own discretion, so far as it may be consistent with the necessary order of the house.

I am, etc.

MEMORANDUM SENT TO HYDE DE NEUVILLE [1]

Department of State,
Washington, 26 April, 1821.

In the commercial regulations established merely by law, the basis upon which every nation proceeds is its own interest, without reference to that of other nations. But commerce being an interchange of commodities, in the disposal of which both parties are interested, it is just in itself, and conformable to the practice of nations, that the regulation of it should be by arrangements to which both parties consent, and in which due regard is paid to the interests of both.

The first principle, therefore, of all negotiation upon such

[1] The French minister, dissatisfied by the reply to his representations made on returning to the United States, sent a confidential letter to the Secretary, dated April 4, "written in a spirit requiring such an answer as would lead to the immediate rupture of the negotiation." The resulting correspondence, dealing with the case of the *Apollon*, a commercial treaty, and other special subjects, is printed in the *American State Papers*, Foreign Relations, V. 166. See Adams, *Memoirs*, April 6–24, 1821.

interests is *reciprocity;* and wherever a collision of interests exists, it is apparent that they can be conciliated only by reciprocal concession.

In the subject upon which a collision of interest between the United States and France has arisen, the two parties have heretofore enacted respectively, each with exclusive reference to its own interest, certain regulations securing, so far as its power extended, certain advantages to its own shipping, by certain special charges within its jurisdiction, direct or indirect, upon the shipping of the other; the result of which *counteracting* legislation on both sides has been, in a great measure, the exclusion of the shipping of both parties from the carriage of the commerce between them.

This result is injurious to the interests of both parties; and the effort now made by both is to agree upon some arrangement by which the conflicting interests of both parties may be conciliated. It is further to be observed that no concession, the effect of which would be to sacrifice the interest of either party more, or as much as it is sacrificed by the existing state of things, could either be durable or satisfactory by both parties.

The difference between the parties having originated altogether from the surcharges upon *shipping*, the natural and obvious principle of reciprocity applicable to the case would be that of repealing all discriminating duties and surcharges on both sides; and this is what has been repeatedly offered and urged on the part of the United States.

It is represented on the part of France, that this principle is inadmissible; but for this refusal no reason has been assigned. No objection on the ground of natural justice or general policy has been, or it is believed can be alleged. It has been assumed without proof that the effect of it would be to throw the whole commerce into the channel of Amer-

ican shipping, although it is notorious that all the outfits of navigation and the wages of seamen are much cheaper in France than in the United States.

Whatever disadvantages French navigation may labor under in competition with that of the United States are believed to be within the control of France to remove. Nevertheless, the opinion of the French government of the subject being stated by the Baron de Neuville to be irrevocably fixed, the President has been willing to meet any supposed disadvantage to France in such an arrangement, by advantages thought to be fully equivalent for them to the agriculture, commerce and manufactures of France. In the minutes of a projet first presented by the Baron de Neuville, the President welcomed what he thought countenanced the hope of such a compromise. The Baron suggested special accommodations to the principal exports from France to the United States, and other benefits to French interests, all which were assented to by the President to the extent proposed by the Baron himself. In return for these concessions he had reason to expect some concession on the part of France [which he certainly could not perceive in a proposal to reduce indefinitely, or even to the extent of $\frac{1}{3}$ the surcharges direct and indirect, upon the shipping on both sides] in which, however, he has yet been disappointed.[1] He thought that with such great advantages granted to the commerce and manufactures of France, the least that could be required in return was that reciprocity which should discard all discriminating duties upon the mere carriage of the trade.

In the second project received from the Baron de Neuville, he proposes to set aside all questions of commercial advan-

[1] The words in brackets were omitted on the suggestion of Monroe and the following clause substituted for them.

tage, as merely secondary objects, and to take that of the shipping interests alone. He proposes a reduction of the discriminating duties on both sides, on the basis of calculations which may be adapted to secure a share of the carriage of the trade to each party. To the admission of this principle the government of the United States have constantly objected upon the most substantial and cogent reasons. The President is yet not aware of any form in which it can satisfactorily be admitted. Nevertheless, in the earnestness of his desire to [accommodate the interests of France, even in the mode which she deems the most satisfactory to herself, he has determined to listen to such specific proposals as the Baron de Neuville may be authorized to make in this respect, and he is accordingly requested to specify what amount of reduction in the duties he would propose as likely to equalize the interests and to satisfy the reasonable expectations of both countries].[1] To abridge the negotiation, perhaps it may be most convenient that the Baron de Neuville should present his proposal in the form of an article for a convention.[2]

[1] The words within brackets were omitted on the suggestion of Monroe, who inserted: "to terminate the commercial conflict between the two countries, he will receive and consider with the utmost attention any specific proposals which the Baron de Neuville may be authorized to make for the accomplishment of this desirable object."

[2] "The draft is approved in its general view and details, with the two modifications above suggested, which are stated for consideration, on the idea that it may be advisable to generalize what we are willing to receive from him, rather than so far to countenance his plan of reduction, as we might do, by specifying it. The more general, that is, the wider we open the door for him to make proposals, the greater the compliment; and the less shall we be compromitted as to the result." *Monroe to Adams*, April 25, 1821. Ms. The correspondence with the French minister on commercial questions is not reproduced in this volume. It will be found in the *American State Papers*, Foreign Relations, V. 149–213.

TO THE EARL OF CARYSFOOT [1]

WASHINGTON, 3 May, 1821.

MY LORD:

I request the favor of your Lordship's acceptance of a copy of a report upon weights and measures recently made to the Senate of the United States. In offering this feeble testimonial of my lasting remembrance of the kindness which I have, at different periods and distant intervals of time and place, experienced from you, I indulge the hope that the subject of the report itself will not be without peculiar interest to you, from the circumstance that your Lordship's father was the chairman of the committee of the House of Commons which, in 1758, led the way to those inquiries into the history of the weights and measures of England, of which this report is one of the results.

More than half a century has elapsed since he made the report of that committee to the House, and the subject yet remains in deliberation as well before the imperial Parliament of Great Britain and Ireland, as before the Congress of the United States of America. Called in the discharge of an official duty to report upon this subject to the latter of those bodies, it has been to me one of the sources of satisfaction with which the researches required by the call were pursued, to reflect that for much of the information obtained by them I was indebted to the labors of your father. A satisfaction mingled with regret, from the fact that I have been unable ever to obtain sight of the report of the committee of 1758, or of that of 1759, by which it was succeeded, and have known them only by the reference to them of the late

[1] John Joshua Proby (1751–1828), British minister at the court of Berlin, when Adams was the American minister.

writers on English weights and measures, and by the extracts from them published with the report of the committee of the House of Commons in 1814.

It has occurred to me as possible that your Lordship may have it in your power to indicate where copies of the reports of 1758 and 1759 might yet be found, elsewhere than among the records of Parliament. Should this be the case, may I ask the favor of your notifying it by a line to Mr. Rush, the minister of the United States at London, who will then procure them and forward them to me?

I am happy to avail myself of this occasion of requesting in behalf of Mrs. Adams your Lordship to present the remembrance of her grateful and affectionate attachment to Lady Carysfoot.

I have the honor, etc.[1]

[1] This report on "Weights and Measures" had occupied Adams for more than three years. The correspondence upon it was voluminous, and the mass of notes, calculations, comparisons and applied tests prove his breadth of investigation and his care for accuracy. The report still holds a position of authority and is a striking example of Adams' industry and capacity for mastering a difficult subject in the intervals of much engrossing official duties. He sent a copy of the report to Prince Talleyrand, accompanied by the following note:

"To the Prince de Talleyrand, the first proposer of a concerted effort of civilized and commercial nations for the introduction of a system of weights and measures, uniform, permanent, and universal, the report herewith transmitted, in which the importance of that idea to the happiness and improvement of mankind is urged in the sincerity of conviction, is presented as a token of respect to him from whom it originated." Washington City, 1 May, 1821.

Another copy was sent to the distinguished astronomer, Jean Baptiste Joseph Delambre (1749–1822), a member of the Board of Longitude, with this dedication:

"Author and editor of the *Basse de Système Métrique*, the volume herewith transmitted, in which a feeble tribute is rendered to the extent and importance of his services to the cause of human happiness and improvement, by his labors for the introduction of a system of weights and measures suitable to universal application, is presented as a testimonial of respect by

JOHN QUINCY ADAMS"

"City of Washington, 1 May, 1821."

TO HYDE DE NEUVILLE

DEPARTMENT OF STATE,
WASHINGTON, 11 May, 1821.

In the communication from the Baron de Neuville, received on the 14th of April, an abstract was presented of six proposed articles, for arranging by a convention the commercial intercourse between the United States and France.

Of these articles, the first, second and third, were adapted to secure, by concessions on the part of the United States, important advantages to the commerce and navigation of France. They were articles not of mutual operation, equally, or at least reciprocally, beneficial to both parties, but of which the whole benefit would be for France, and the whole sacrifice or concessions on the part of the United States.

The fourth article was also exclusively for the benefit of France. It was a reduction of the discriminating duties of the United States in favor of French vessels laden with French productions or manufactures, generally and without exception.

The fifth article offered a reduction, indefinite, of the discriminating duties imposed in France, upon *four* specific articles, and no more, of American produce, when imported from the United States into France in American vessels.

The sixth article proposed to settle the tonnage duties on both sides, on principles of reciprocity.

This project, therefore, consisted of one article of reciprocal benefit; one article of partial equivalent to the United States, for a corresponding article of general benefit to France; and three articles exclusively for the advantage of France, without any equivalent whatsoever.

In the memorandum transmitted on the 18th of April to

the Baron de Neuville, as an answer to the above proposals, the offer was made to agree to the *three* articles, the operation of which would be exclusively favorable to France. The only equivalent asked for, which was that the sale of American tobacco in France should be released from the shackles of a monopoly, and placed on the footing of all other articles of the traffic between the two countries.

And it was proposed that all discriminating duties and surcharges, whether of tonnage upon vessels or upon the articles of traffic, should be abolished on both sides, and the principle of perfect reciprocity be substituted for them.

In the reply of the Baron de Neuville, dated the 21st of April, he observes that commercial concessions, being only of secondary consideration, may for the present be altogether set aside, and proposes to adjust the navigation question alone.

To which purpose he proposes a basis founded upon two principles: one, that the discriminating duties on both sides should be reduced; the other, that the reduction should be so modified that the vessels of both countries might share in the conveyance of the articles of trade between them.

However reluctant the American government must naturally feel at acceding to a basis, the avowed object of which was to burden the shipping of the United States for the benefit of the shipping of France; at consenting to deprive by unequal incumbrances their own navigation of advantages which it possessed; yet even this basis was not rejected; and in a note from this Department of 26 April, the Baron de Neuville was requested to specify, in the form of an article, what reduction of the discriminating duties on both sides he would consider as suitable to the views of France, and likely upon the principle of mutual concession to be just to the interests and satisfactory to the feelings of both countries.

It has not been without surprise and concern, that in the reply to this note, the President has seen, not the specification desired of a single article, setting aside, as proposed by the Baron de Neuville himself, the commercial concessions as secondary; nor even a return to the project first presented; but a third project in five articles, not only blending again together the navigating and the commercial concessions, but advancing new and additional claims of articles exclusively favorable to France; and suggesting that other *indispensable* articles must follow, without even an intimation what the purport of those articles would be, or to what they relate.

The objects of discussion and suitable for adjustment between the two countries are various, and encumbered with difficulties in various degree. But there is *one*, which in the present state of things bears with peculiar hardship upon the interests of both countries; and must continue so to bear so long as it shall remain unadjusted. It is in the power of the two governments, by an immediate agreement, to remove this altogether, and to restore the commercial intercourse between them through the medium of their own navigation. Every day of delay to the adjustment adds to the injuries suffered from the present state of things by both parties. Not only commercial concessions, as remarked by the Baron de Neuville, but *all* the other subjects of negotiation between the two governments are secondary to this. It was therefore with much satisfaction that in the Baron de Neuville's note of 21 April the President perceived a proposal to arrange this interest, first of all, and separately from all others. Pursuing this idea, I am authorized to propose, that the discriminating duties as at present existing, as well upon vessels as their cargoes, shall cease on both sides; that in their stead the tonnage duties and all charges upon the vessel shall be equalized, as proposed by the Baron de Neu-

ville, and that the discriminating duties on articles of the growth, produce, or manufacture of the United States, imported in American vessels into France, or of the growth, produce, or manufacture of France, imported in French vessels into the United States, shall be respectively charged with an *additional* duty of [ ] per cent on *the value of the article* at the place of lading, beyond the duty levied upon the same articles when imported in the vessels of the importing nation respectively.

Should the Baron de Neuville accept this *basis* of arrangement, it will only remain to agree upon the precise amount per centum on the value of all articles which shall constitute the surcharge, and it is believed there can be little difficulty in ascertaining an amount which in its operation will secure to the vessels of both nations a competent participation in the carriage of the trade.

The President believes that an agreement on *this* point, once concluded, would greatly facilitate a mutual good understanding upon every other. He is nevertheless willing to consider all the others suggested by the Baron de Neuville in concurrence with it. It is only to be remarked that reason and justice equally dictate the necessity of proceeding upon a basis of reciprocity. That either the commercial concessions must be set aside, as proposed in the Baron's note of 21 April, for after and separate consideration; or, if taken into the account, being all in favor of France, they may be compensated either by commercial concessions to the United States, or by *entire* reciprocity in the article relative to navigation. . . .[1]

[1] "You may recollect that we had it in contemplation, in case Naples had sustained herself with some degree of form and dignity, to have sent a minister or agent to her, among other objects to watch the movement and to protect our commerce. Had we taken that step it would have voiced (?) our sentiments in strong

TO THE PRESIDENT

[James Monroe]

Washington, 9 July, 1821.

Sir:

In the month of April last, I gave testimony upon oath in answer to certain interrogatories upon a commission issued from the Supreme Court of the Eastern District of Pennsylvania, in an action for slander brought by Levett Harris against William D. Lewis. I therein stated that a few days after the 25th of February, 1818, upon certain written charges and other documents which had been transmitted to the Department of State implicating the conduct of Mr. Harris while he was consul of the United States at St. Petersburg, the President intimated to me that Mr. Harris, apprehensive that I was unfriendly to him, was desirous that the investigation of the charges against him should be referred to some other member or members of the adminis-

terms of the doctrines issued from Troppau and elsewhere by the allied powers, which in principle strike at our government almost as directly as at that of Naples, and are perhaps more directly applicable to it. Will it not be proper that a paper should be presented on the part of this government to those powers, to be addressed to their ministers here, or by our ministers with them, in obedience to instructions, examining calmly the extent of those doctrines, asking their scope, if any doubt should remain respecting it, and protesting against them, if there be none, in the view taken of them? I am aware that this is a most delicate topic, and which ought not to be touched without the most thorough conviction of its policy. It may make us a party, in a certain sense, when it may be the object of all to leave us out of the great movement on foot. It may avert a danger which, tho now latent, may assume a visible form hereafter, since it may animate the friends of human rights everywhere, and thereby check the progress which is making, or intended to be made, in favor of universal despotism. I merely suggest this for consideration, that you and the other gentlemen of the administration may weigh it in my absence." *Monroe to Adams*, May 28, 1821. Ms. Four notes from Adams to Forsyth, dated June 13, 16, 18, 20, are in *American State Papers*, Foreign Relations, V. 369, 370.

tration, to which I immediately and readily assented. I afterwards understood that the reference was to the Secretaries of the Treasury and War. How they conducted the examination I am not informed. They did not require my testimony, nor did I feel myself bound to offer it. Their report I understood was verbal, and not decisive.

I am informed that Mr. Harris is, or has recently been, in this city, and has asserted that he could prove my assertion that I was not required to give my testimony upon the investigation by the Secretaries of the Treasury and of War unfounded in fact; that I was required to give my testimony, and did give it, though not upon oath; and that he expressed a wish to appeal to you in confirmation of this fact.

I find myself therefore under the necessity of requesting the favor of answers to the following questions in writing.

1. Whether you ever directed or requested me to make a statement of the facts personally known to myself in relation to the conduct of Mr. Harris, as consul in Russia, to the Secretaries of the Treasury and War upon their investigation of the charges against Mr. Harris?

2. Whether you ever directed or requested me to make any communication to them whatever upon the subje ct other than to transfer to them the papers relating to it which were at the Department of State?

3. Whether I ever did make in your presence what you considered at the time as a statement of all or any of the facts personally known to me in relation to the said conduct of Mr. Harris to the Secretaries of the Treasury and of War, to be used or considered by them in the investigation of Mr. Harris's conduct, and if I did, what was the purport of my statement.[1]

I am, etc.

[1] Among the Adams Papers is a large folio volume of letters and papers relating

TO ROBERT WALSH, JR.

WASHINGTON, 10 July, 1821.

MY DEAR SIR:

I inclose you a copy of an address delivered by me to citizens of Washington at their request, on reading to them on the 4th instant the Declaration of Independence.[1]

The task in the first instance allotted to me was merely the reading of the Declaration. Disappointed in their application to an orator equal to the theme of the day, the Committee invited me to accompany the reading with an appropriate address. This is the result of my compliance with their desire.

There may be those among my fellow citizens who will consider that the avowal of some of the sentiments in the address, however suitable to a private citizen of the United

to this matter. Harris was charged by certain Americans with misconduct in his consular position. The general features of the long controversy may be gathered from Adams' *Memoirs*.

[1] *Address at Washington*, July 4. It received notice much beyond the expectation of its writer, and continued for some time to be subject for partisan discussion. In sending to his government a copy of this oration Canning stated that Adams spoke in his individual capacity, and appeared "in the gown of a professor of Rhetoric. Mr. Adams has disclaimed the intention of encouraging any hostile or vindictive feelings against England, and therefore such appearances of rancour, as might betray the unadmonished reader into an opposite persuasion, can only be laid to the account of eloquence too fervid to balance expressions, for the selection of which but three preparatory weeks had been allowed. Yet considering the important office occupied by Mr. Adams, and the still more important station at which he is understood to aim, the language which on this occasion he has either chosen or chanced to employ in divulging his political impressions respecting England, and her conduct towards this country, can hardly be viewed with indifference by his Majesty's government." *Canning to Castlereagh*, July 30, 1821. See also Lane-Poole, *Life of Stratford Canning*, I. 309. Poletica was severe in his comments. *American Historical Review*, XVIII. 327.

States, was in the mouth of a person exercising a peculiarly responsible public office more indicative of sound principle than of *discretion*. I have not been unaware that my accidental and transient connection while it existed with an office, through which the principal political intercourse with foreign countries is held, prescribed a measure of prudence in the public expression of my opinions, even upon occasions altogether extra official. Yet in commenting upon the Declaration of Independence, it was impossible to point out that which distinguishes it from any other public document ever penned by man, and that which alone can justify its annual public reperusal, forty years after the close of the conflict of which it was the manifesto, without touching upon topics of peculiar delicacy at this time, and without coming into collision with principles which the British government itself disclaim, but which Emperors and Kings yet maintain at the point of all their bayonets and at the mouths of all their cannon.

Far from thinking that this was an occasion for flinching from the assertion of our peculiar and imperishable principles, I am free to confess that one of my reasons for assenting to the request that I would deliver an address was to avail myself of the opportunity of asserting them. The sentiments were indeed exclusively my own; neither the chief magistrate nor either of my colleagues was aware of a word that I should say until he heard it spoken. The responsibility of having spoken it rests exclusively upon myself, but I have no reason to believe that either of them would disclaim his concurrence in any one sentiment that I expressed.

Another objection which may be anticipated to the character of the address is perhaps a seeming inconsistency between the disavowal of Revolutionary resentments, and the

tone of sentiment preserved in it with regard to the British government and nation. In this case I trust every discerning mind will perceive the difference between the oblivion of past resentments, and the resistance to present hostility. The animosity which we have now to encounter from Britain is purely national. It is rather discountenanced than stimulated by the government, and is inspired by the two deepest and most malignant passions of the human heart — revenge and envy — revenge for the national humiliation of two successive wars, envy at the unparalleled growth and prosperity which associate with all their thoughts of America the torturing terror of a rival growing every day more formidable to them. Can a stronger illustration of this truth be given than in the elaborate dissertation of the British author [1] of the campaigns of Washington and New Orleans, to prove that in the next war with the United States, the only possible chance of successful warfare for Britain will be a systematic destruction of all our populous towns — a system which he admits would be too atrocious for a war with the people of a monarchy, but which he maintains would be perfectly justifiable against Republicans. What a vulture must be pouncing on that heart which could heave up such a sentiment for the execration of mankind! That vulture is pouncing constantly on the heart of the British nation, and it is well that we should be aware of it, that we may be duly prepared to meet that form of British hostility whenever it may be displayed.

It is to cater for that vulture that all the literature of Britain is so generously and so incessantly employed in depreciating the intellectual and vilifying the moral character of the American people. It is for that vulture that their travellers cross the seas, and that their daily, monthly and

[1] George Robert Gleig (1796–1888).

quarterly journals, Whig and Tory, concoct with emulous industry the aliment. It is the vulture which prompts a distinguished peer of the realm to avouch a despicable radical lampooner of America, for the *corruption* of our elections, and hence to infer the superior purity of the rotten borough system. With a few, a very few exceptions, it pervades them all.

It is not too much to say that the literature of the public journals in Britain has more influence both upon the nation and upon their neighbors than the government.

It was upon this consideration that I did not think it beneath the dignity of the day, nor incongruous to the station of the speaker, to allude to some of the most venomous effusions of the British periodical press. It will be obvious that in retorting upon their bombastic pretensions to superior inventive genius, I have not intended to discredit their real discoveries and inventions, or to shed ridicule upon their ardent and meritorious pursuits in the fine or mechanical arts, or in the fields of literature and science. Though I think the steamboat an invention of more extensive usefulness to mankind than all their *inventions* since our Declaration of Independence put together, yet I would to God that there was not an useful invention of which they can boast, but for which we could show them a counterpart of our own.

In this warfare of the mind which we are compelled to maintain, in defence of the character of our country, I hope you will consider me as a follower and fellow labourer of your own. If even the Aristarchs of Edinburgh had taken your castigation kindly, and made a fair and honest apology for the insidious hostility which you had exposed, with due promise of amendment, I would not have disturbed the truce. But the Edinburgh article upon your book is every

way exceptionable; it shuffles between candid avowal and ingenuous recantation, without either the spirit to defend or the generosity to atone for its offence.

It inculcates a political doctrine in my estimation of the most pernicious tendency to this country, and the more pernicious, because it flatters our ambition — the doctrine that it is the duty of America to take an *active* part in the future political reformation of Europe. It is most especially to that doctrine that a passage alludes in the address, which the hearers generally understood as referring only to the South American contest. The principle applies to them both, and my intention in pronouncing it was to reply both to Edinburgh and Lexington.[1]

There are passages in the address to which I cannot expect your assent. Those I mean which have reference to what we call the religious reformation. I know not how far to a philosophical Roman Catholic, which I know you to be, the doctrine of infallibility upon earth is an article of faith, or a mere article of church discipline. But I take it for granted that at this day, the usurpation of the ecclesiastical power during the middle ages may be descanted upon without departing from that liberality which should be observed towards all religious opinions. It was indeed impossible to treat the subject upon which I was called to speak in the manner which I thought most appropriate to it, without connecting the religious revolution of the 16th century with the origin of the doctrines which issued in our Independence. I have only to assure you that nothing could be farther from my intention than to reflect upon articles really essential to the Catholic faith, or to wound the feelings of those who receive the doctrines of the Church even in wider latitude.

I need not say that this letter is entirely private and con-

[1] A reference to Henry Clay.

fidential. I have wished to assure you that I am not insensible either to your good opinion, or to the manifestations of it which you have more than once given to the world. And I know not of a more suitable occasion to give you this assurance than on requesting your acceptance of a copy of this address, of which, although particular passages may differ from your opinions, I flatter myself the general scope and tenor will meet with your approbation.

I am, etc.

TO THE PRESIDENT

[James Monroe]

Washington, 17 July, 1821.

Dear Sir:

I have the honor of enclosing for your revision the draft of a letter to the Baron de Neuville concerning the case of the *Apollon*. As there are passages in it which would appear intemperate, but for those which provoked them, I enclose translations of his letter of 4 April and of his note of the 9th instant, requesting of you to examine them particularly with reference to the reply, and if anything deserving of notice in his letter is omitted in the reply, that you would have the goodness to point it out, that I may make the necessary additions.

I am satisfied in my own mind of the *legality* of the seizure of the *Apollon*, both by the laws of the United States and the laws of nations. The latter rest upon the principle of natural and unquestionable justice. The former seem to me strongly fortified by the 14th section of the collection law, which expressly includes the *river St. Mary's* (not limited

to the middle of the river) within the revenue district. The principle that the jurisdiction of a nation for the execution of its revenue laws extends much beyond its territorial jurisdiction properly so called, I take to be settled by universal usage. And the question in this case appears to be of such magnitude, as a question of existing authority in the government, that I would suggest to your consideration, whether it would not be expedient to instruct the District Attorney in Georgia to defend the action against the collector brought by Captain Edou, and if it should turn upon the point of legality of the seizure, to have the cause, in case the decision should be against the collector, brought up to the Supreme Court for a solemn decision by them.

As Mr. Roth is on the point of departure for France, I must beg the favor that the draft may be returned to me as soon as will suit your convenience.

The enclosed letter from Mr. Forbes at Buenos Ayres is the only important communication received at this Department since I had the honor of last writing to you.

I am, etc.

TO CHARLES JARED INGERSOLL

WASHINGTON, 23 July, 1821.

DEAR SIR:

I thank you very sincerely for your kind and flattering letter. It has been one of the most delicious fruits of my compliance with the invitation to "speak out" which my fellow citizens here gave me in their disappointment on application to a more competent orator. For I did consider it as an invitation to speak out, and I very honestly thought there never was a moment in our history when there was a

more urgent want of some one who should speak out, to and for this nation, and in a voice which would be heard by the whole race of civilized man. But I candidly confess I did expect it would be to heedless, or to disdainful, or to *horescent* ears, even in our own country, and much more elsewhere. When the first suggestion was made to me of a wish that I would speak, my answer was that I was tongue-tied by my place. But it being once made, I brooded over the idea, till I made up my mind to risk it and take the consequences.

The task first assigned me was only to read the Declaration. The second was to comment upon it, and two topics struck me as preëminently involved in it — the cause of *man* and the cause of *our country*. I determined to probe them both, as far as my powers would bear me out, to the bottom. But I little expected that it would have drawn so much notice as it has, and still less that it would have brought me so delightful a letter as yours.

It was certainly not intended to waft incense to any member of the *corps diplomatique* among us. I have not accustomed any of the gentlemen in that capacity residing here to expect that from me, in any of their relations with me. I resolved to say nothing to which either of them could have a right to take exception. That they would be pleased with what I should say, I did not expect.

The style and composition are legitimate prey for the critics. It is my principle that a man who gives himself voluntarily to the public has no right to ask indulgence for any thing. To some of the offences against taste which have been charged upon me, I plead guilty. If I would demur to others, it would be in vain. The public will judge for themselves.

The theoretic portion has been called cold and metaphysi-

cal. I have only to say I made it as warm as I could. I could not make it physical.

In Europe, if it escapes being called *inflammatory*, it will be because it will not be read.

I am especially glad to have your concurrence in that which seems to have been most extensively censured, *the temper towards Great Britain.*

People, who go every week to see seven ghosts in succession rise from the lower regions upon the stage and say to Richard, "Let *me* sit heavy on thy soul tomorrow," and admire the scene as sublime, are quite shocked at the inhumanity of a distant and general allusion to a calamity as having perhaps atoned for the sins of a soul upon which fifty thousand dead ghosts might with equal justice rise and sit heavy — sins distinctly and specifically charged in the paper upon which the speaker was commenting. What is George the Third now more than a *historical* character, and what is Richard the third less? For my own part, far from feeling that remark as a *severe* allusion, I declare to you it was made in a relenting and compunctious spirit, seeking an apology for the idea that sins like those could be atoned for by mere earthly sufferings. As to the *nature* of George the Third's sufferings, it is so entirely kept out of sight in the passage of the address objected to, that no hearer or reader not already acquainted with the fact would ever suspect it. For eight or nine years a prayer was read every Sunday and every holiday in every church throughout England in which the character of this misfortune was quite transparent, yet I never heard of its being censured as indelicate. But to pass from the man to the nation, it is said that I have stimulated animosities against the British, even while disclaiming vindictive recollections. Such critics should recollect that my theme was not merely our independence but its *Declaration.* Suppose a man should

be appointed to deliver an oration upon the massacre of the St. Bartholomew's, would the disclaimer of a vindictive spirit in descanting upon it be incompatible with an unrestrained overflow of heart upon the character of the transaction? The British nation had made themselves as willing and eager parties to an unjust and cruel, and so far as there was a drop of kindred blood in their veins, an unnatural war against their countrymen in this hemisphere. This was the specific charge against them in the *text* of the speaker. Was he to frost this wormwood with sugar, or neutralize it to insipidity?

Was he to pass unnoticed that unrelenting war of slander and invective, waged by almost all the literature of Great Britain against the good name of his country to this hour?

While in aid of the pestiferous exhalations of their periodical press, peers of the realm and chancellors of the exchequer, whig and tory, in place or out, at their seats in Parliament and at the convivial board, were showering down torrents of false and malignant defamation upon America, was an American Secretary of State, discoursing as a private citizen to his countrymen upon topics which touched every chord of glory and of patriotism in the heart, to seem to know nothing of all this, or was he to case himself in buckram, and measure all his terms by the decorum of a diplomatic note?

Well did I know that this address, if it attracted more notice than a common fourth of July oration, would rouse the crest of every snake or Medusa's head against itself and against its author. Prudence, says Peter Pindar, when she visits a house leaves her opinions with her pattens at the door. And a great authority says *Nullum numen adest ne sit prudentia.* I did hesitate much and long before I dismissed this "sly insinuating lass," and then it was only by asking her to step into the next door, while I should be hold-

ing a talk with my countrymen. A concurrence of circumstances quite accidental produced my final determination, and the decisive incident that produced it was this. The narrative of the campaigns of Washington and New Orleans deliberately proposes and urges the adoption of principles of war against the United States, as republicans, which he acknowledges would be too cruel for legitimate war against the people of a monarchy. I had just seen the extract from the work containing this sample of British humanity published in twenty of our newspapers, without a single word of comment upon it. And I thought it high time that we should be asking ourselves, where we were in our relations with that country. I have neither time nor space to enlarge, and I ought rather to apologize for saying so much to you of myself. You may rest assured that whatever the feelings of the diplomatic gentry may be on this occasion, they will not officially disclose them to me. I only wish they would.

I am, etc.

TO THE PRESIDENT

[James Monroe]

Washington, 25 July, 1821.

Dear Sir:

I have directed the note of the French Minister to be made out, conformably to the amendments which accompanied your favor of the 23rd with two exceptions. One is the direction to insert at page 22 something to this effect: "It may readily (or willingly) be admitted (or imagined) that he (Capt. Edou) was deceived by others, and led into these measures without a correct knowledge of their conse-

quences, and the good opinion which the Baron entertains of him is well calculated to make that impression."

I beg leave to suggest to you my reasons for objecting to the insertion of this, or any paragraph of similar import.

The conduct of Capt. Edou, as apparent on the face of his own declarations, has a *clear unequivocal* character with reference to morals. It is marked by *falsehood*, *fraud*, and *violence*, all exercised avowedly for purposes of outrage upon the laws of the United States.

This conduct the French Minister in an insolent and sophistical note has held forth to the world as the conduct of a man of honor and integrity, so profoundly injured by the American government in merely crossing the middle of a river, and using the necessary force to defeat his purpose, that it must be blown up into a national quarrel and made a question between the dignity of the crown of France, and the degradation of the American government. The party really and deeply injured is peremptorily called upon to apologize for the wrong it has endured, and to swallow the last dregs of indignity to appease the honor of a flagrant and notorious smuggler.

Such, sir, is the plain matter of fact, and I cannot disguise to you that if I have profoundly felt the conduct of Captain Edou as it affects the rights and interests of our country, I have been much more indignant at the attempt of the Baron de Neuville to palm it off upon the world for the suffering of injured innocence, and to trample upon the honor of this nation, by exacting upon the most paltry pretences that the American government should degrade itself, and by the basest of concessions set the seal to its own shame.

I will candidly confess that in my view of the subject to such a demand so made and so repealed upon such a state of facts, something more was required of the *feeling* of this

government than a mere cold refusal to comply with the demand. The prospect that includes in itself insult upon justice, honor, and honesty, is not in my view adequately met by mere rejection. I had understood it as your direction in a former letter, that Mr. de Neuville was to be told that there must at least be no more discussion of that proposal between him and me; but I find that the paragraph to that effect is among those excluded by the amendments.

The character of all the transactions involved in this affair exhibits the abuse of positive regulation on one side, against truth, justice, and national rights on the other; and I thought that in the answer to the Baron's note the contrast of these qualities could not be placed in too strong relief. I acquiesce, however, very cheerfully in your calmer and perhaps firmer consideration of the subject, so far as to suppress all manifestation of resentful feelings, and even all exposure of the intrinsic depravity of principle in the Baron's letter. But I cannot, without permitting compliance to encroach upon sincerity, admit even in imagination that Edou was ignorant of the criminality of his own conduct, or allow in the most distant manner the propriety of de Neuville's supporting him in it.

I submit to you further that these admissions would exceedingly weaken our cause. Clarke's letters prove to demonstration a foul *conspiracy* against the laws of the Union. Edou was the first and a most willing instrument to carry it into effect. His own declaration proves that he acted by *falsehood*, fraud, and violence (for he threatened to blow out the brains of our officers). He left this country with threats and defiance against us. His wrong is the main pillar of the solid justice of our cause. And the Baron de Neuville is not less *wrong* in supporting him as he does. Now an admission that Edou might be only deceived, and

a profession of complacency for the interest which the Baron takes in his favor, would take from us much of the best ground upon which we stand.

The other passage which I shall omit is that which says, it was understood that the government of France and of other powers approved of the suppression of the adventurers at Amelia Island. The Baron might perhaps contest the fact.

I now enclose the declaration of Edou transmitted to me by the Baron himself, and which I believe you have never seen. I entreat you in reading it to compare the tone of its language with the narrative of facts, and to bring both to the touchstone, not of mid-river boundaries and custom-house cockets, but of justice, truth and the rights of our country. If you then think it would become me to volunteer an apology for Edou's conduct, or to show anything like deference for de Neuville's support of it, I will recur to my unqualified consciousness of your superior judgment. I will insert the paragraph and sign the paper.

I remain, etc.

TO ALEXANDER HILL EVERETT

DEPARTMENT OF STATE,
WASHINGTON, 25 July, 1821.

. . . . . .

After the failure of the negotiation for a new commercial treaty with the Netherlands in 1817, it has never been the intention of this government to renew the conferences, without some special new inducement for it. The disappointment in the result of that negotiation, after the anticipation of success which had been encouraged at its commencement, was a warning against making a second attempt, without

some security that it would not again prove abortive. There was some reason for surmising that the difficulties which then prevented the conclusion of the treaty were not the only ones which operated upon the issue. A disposition has been manifested to remould one or more of the articles of the existing treaty in a manner less favorable to *neutral* rights; and an influence other than that of the Netherlands was perceived, or suspected, of raising obstructions to the agreement of the commissioners, the existence of which subsequent events have not tended to invalidate. Since that time the Netherlands have become parties to a treaty sanctioning so far as their example can go, the principle that the merchant vessels of one nation, *even under convoy* of ships of war of their own, may be visited, examined, and seized by the armed vessels of another. The object of the two articles upon which the plenipotentiaries in 1817 disagreed, has been since obtained on both sides by municipal regulation, without treaty; and as the act of Congress of 3 March, 1815, authorizing the reciprocal equalization of duties, is now limited in its operation to the 1st of January, 1824, there might be some inconvenience in contracting engagements liable to interfere with the views which may be taken of it by Congress at that time. . . .

TO ROBERT WALSH, JR.

WASHINGTON, 27 July, 1821.

MY DEAR SIR:

Mr. Brent has been kind enough to show me your letter to him, and I desired him to say something to you from me in answer to that part of it which concerns myself. Upon reflection I have concluded to add something of my own. There is a pleasure in communing with a mind like yours,

and the more pleasure for its occasional collisions with my own. *Idem velle et idem nolle, id demum est amicitia.* I think this is a sentiment of Catiline, or Cethegus, for I do not remember which, but it is not mine. *That* is not friendship. It is dulness, or it is flattery. It is neither friendship nor truth.

I desired Mr. Brent to say that I was satisfied with your notice of my address on the whole, though I could answer part at least of your censure, and though you have not placed my defence upon the grounds on which I should have placed it myself. I repeat that I am well satisfied with your remarks considered as the review of an *impartial* and *not unfriendly* critic. But there are among them some observations which a positively friendly critic, if he thought them, would rather have made privately to myself, and left for others to make to the public. When in your introductory paragraph you pitch Mr. Pinkney, Mr. Wirt and myself, into one truckle-bed, to indulge yourself and treat your readers with a laugh at the expense of our taste, I certainly for one could take no exception to the company with which you have coupled me; but I think neither could take as a *friendly* office that which you were performing, and I as a critic upon the criticism charge it upon you as a lumping censure, without any of your discriminating acuteness, and, if just as respects myself, hardly fair towards Messrs. Pinkney and Wirt, who were not then, as I was, *at your bar.*

Your sentence upon the address as a literary composition, though generalized in its terms and qualified by an admission that it has *considerable merits*, I understand to be unfavorable. You hasten away from this part of your decree as if it set irksomely upon your mind, and as if you felt more than you were willing to express.

I have long known that there is a radical difference between

your theory of composition and mine. Our principles of style are different. I do not mean to say that I disapprove your style. On the contrary I admire it. But if you should use it in the composition of a fourth of July oration, I should probably desiderate in the work precisely those qualities which you blame for being in mine — vehemence, boldness of imagery, swelling, copious, and even redundant periods. Now if the error in this case is mine, it is an error of the first concoction. I think I could not write an oration in the style of which you would approve, and with this impression I pass to the account of your good will that you have let me off so easy upon this score. I was not surprised that the style failed of pleasing you; but I was very agreeably so, when I saw you quote as a beauty what my own judgment had hesitated to pronounce, because I thought it the most verbose passage of the whole address. I mean the passage about Palestine and Scandinavia. You except to a few incidental passages on the score of temper and of doctrine. If I rightly understand the meaning of the term *doctrine* there, we need no discussion of it. Where the defect on the score of temper is you do not explain, and I am at some loss to discover, because you have strenuously defended that which has been, as from my former letter you perceived I was aware it would be, much censured by others. I mean the general tone of temper towards Great Britain. You "hesitate to dislike" of the passage having reference to George the Third. You declare you do not relish the *figure*, you admit that the sentiment was harsh, but you think the alluding to his illness might be excused because it was historical fact.

This opinion from one whose judgment I so highly respect has convinced me that there is something at least ambiguous or obscure in the passage, conveying ideas other than those

I intended. The Declaration of Independence is a personal bill of indictment against the individual George the Third. It classes him among the most detested of tyrants. The charges against him contained in it are all true. You know that he had been subject to occasional fits of insanity, at least from the first years of his reign. You know that in 1788, when this his condition first became notorious to the world, Dr. Franklin being told that the King of England was insane, asked if the people of England *had just discovered it?* I have other reason for the undoubting belief that the American Revolution is mainly attributable to that condition of the mind of George the Third; and I have no hesitation in saying that it would alone disarm me of almost all resentment against him, and teach me to think of him more in compassion than in anger. This man, at the time when I was commenting upon the Declaration of Independence, had recently died. That Declaration made him a Nero. How could I overlook him? How could I soften or mitigate the severity of my *text* upon him, but by leading in as delicate a manner as I could the minds of my hearers to the contemplation of him in a condition released from moral responsibility? The figure, as you doubtless perceived (and perhaps that is your objection to it), has two allusions. One to the epitaph in Gray's *Elegy*, and the other to Uncle Toby's oath in *Tristram Shandy*. But remember that both these are the cases of *sins forgiven*. And when in general terms, without naming the nature of his sufferings, I suggested the hope that they might have propitiated the divine mercy, and atoned for *crimes* like those denounced in the Declaration I was to read, I declare to you that the sentiment of my own heart, and that which I thought would be conveyed into the hearts of my hearers, was that of melting into forgiveness. I am yet to seek what there is in it of

harshness, and should be glad to have it pointed out to me.

Without concurring in the objection against my use of the treaty of peace, you think I have not availed myself of it in the best manner, and upon specifying a *play upon words*, as if that was the most striking characteristic of the *manner* in which I availed myself of that instrument. I think there is nothing that can properly be called a play upon *words*, for the terms serene and serenity are not used in different senses in the two passages; but the emphasis upon the second was merely intended to point ridicule at the first. But grant it was a play upon words, it was assuredly not the marked characteristic of the *manner* in which I availed myself of the treaty of peace. The treaty of peace is one of the vitals of the discourse.

The whole address is a contrasted view of liberties founded on *grant*, and liberties founded on *acknowledgment*, exemplified by Magna Charta on the one hand, and by our Declaration and the acknowledgment in the treaty of peace on the other. The treaty of peace was as necessary to my argument as the Declaration itself. The preparation for its introduction is laid in the very first page of the address. The address is not an oration constructed according to rhetorical rule; it is a continued tissue of interwoven narrative and argument, without exordium, without division of the subject; with an episode, if you please, in answer to the question, what has America done for the benefit of mankind? and with a peroration of ten lines at the close, but all bearing directly on the Declaration which it was my charge to read. This was my *manner* of treating my subject, and the *manner* of introducing the treaty of peace was precisely where in the progress of the narrative it must be, at the close of the rapid view given of the war. The *Declaration* had closed with a very solemn

adjuration of *Divine Providence* for its support. The treaty of peace begins by a reference to *Divine Providence* as having disposed the heart of the king to make the peace. Now I did think, and cannot for my soul help thinking, that this coincidence was exceedingly striking, and it was a part of my manner of introducing the treaty to point it out. But I could not introduce the Divine Providence of the treaty of peace without falling upon the enumeration of the king's titles which immediately followed, with the epithets of *most serene and most potent Prince* at their head. This particular qualification of *most serene*, coupled behind with the war since the Declaration of Independence, and before, with the ACKNOWLEDGMENT which was to follow, struck me as so irresistibly ludicrous that I thought the very attempt to read it with gravity would make my readers laugh in my face. I thought therefore that the *manner* suited to it was *sarcasm*, and the tone of delivery in reading it a subdued mock heroic, half way between seriousness and burlesque, and in that tone I did deliver it. But as you read the address my idea of this "most serene and most potent Prince" is not entirely disclosed. I am ashamed to ask you to turn to the 26th page of the copy which I sent you of the address, to the word "oppression" in the last line of the page. In my original draught of the address this word was followed thus: "There were among them no most serene and most potent Princes, whose hearts Divine Providence could dispose to peace and justice by nothing less than seven years of merciless and ignominious war." This sentence I have no doubt would have been one of the most popular in the whole discourse, but I struck it out for two reasons: first, from that motive of tenderness to the personal character of George the Third which I felt and intended to communicate; and secondly, because it was one of those things

which it might be thought unseemly for a person holding my station to say. I now trust it in confidence to you as setting more in relief the combination of ideas which influenced the manner of my introducing the treaty of peace.

But the great and indispensable necessity of the treaty to me was its ACKNOWLEDGMENT of our Independence to the same extent in which it had been declared. This was a topic upon which I doubtless could have enlarged, and which I might have pressed hard upon Britain as a recognition not only of our Independence, but of the principles of the Declaration. I could also have dwelt much and perhaps with good effect upon the historical unity of our conflict for Independence, at which I have only glanced. But I was encroaching upon time, and afraid of tiring the patience of my hearers. If the whole tribe of vulgar and invidious critics who have fallen upon the address in all quarters of the Union had failed of discerning what I myself consider as the marked characteristics of my manner of introducing the treaty of peace or its preamble, I would have sent them to school and recollected the admonition of the lady to Rousseau "Tais toi, Jean Jacques, ils ne t'entendront pas." This is all I would answer to critics who have seen in the light touches upon petty British inventions and discoveries since our Independence, and in the very *deliberate* epithets of fustian romance and lascivious lyrics which I have given to their most fashionable literature, a depreciatory estimate of arts, sciences, or letters, or a disrespect for the names of Newton, Bacon, and Locke, or of Shakespeare, and Milton. One of the authors of the lascivious lyrics has been among the most violent and outrageous slanderers of our country, and I owed him a grudge for that as well as for the philters he so long administered to our youth of both sexes.[1] An-

[1] Thomas Moore.

other has lately done justice to himself by acknowledging himself one of the corrupters both of taste and morals, who are lording it over English literature and therefore over ours. If I could take his confession for an earnest of repentance and amendment, I should have hopes of him; but I expect it is only a pretence to more cantos of Don Juan.[1] My objections to the fashionable romance are: first, that it is an exaggerated and therefore false picture of human nature. Its characters are strange, and mysterious, and wonderful, and witty, and generally in good keeping, but they are not men and women. There is great and admirable genius in these works, and so there was in the library of Don Quixote, else there would have been neither motive or occasion for the satire of Cervantes. Secondly, the tendency of these romances is immoral. They are manuals of superstition, one of the most dangerous and pernicious propensities of the human mind. There is no Peter Quince, as in Mrs. Radcliffe's incantations, to tell the ladies that the lion of the play is no true lion, but Snug the joiner. Before delivering the address I had at one time the idea of saying instead of fustian "second sighted romance." But I thought this latter epithet might be taken for a *national* reflection upon Scotland, and therefore avoided it. My third objection to these far famed romances is, that they are party productions, as much so as the *Courier* newspaper or the *Quarterly Review*. They are anti-republican works, written to degrade public opinion, the covenanters, and reformers of other ages, for the sake of a refractive effect upon the radicals, and even the Whigs of the present times. In this point they bore directly upon my subject, and deserved a touch from the tip end of my lash as I passed along. As to the sportive allusions to Sir Humphrey's exhilarating gas and Herschel's

[1] Lord Byron.

Georgium sidus, I meant them in good humor, and cannot now but be amused at the tragical tone with which they are resented.

But I am digressing. I was observing that if the vulgar and malevolent critics upon the address had failed to discern what I meant should be as clear as daylight, the *vitality* of the treaty of peace to my whole argument, and the motive for the manner in which I noticed its preamble, I should merely have imputed it to their inattention, or their incapacity, or to that sort of bandage which you men of sense often involuntarily tie round their own eyes, when they are to judge of what they do not like. But I do not so deem of you. That you did not perceive it I see; for if you had, it would have been impossible that you should have indicated a mere play upon words as the notable characteristic of my manner of introducing the treaty of peace. I have therefore at the expense of all this tediousness explained to you the absolute necessity that I was under of introducing the treaty of peace, and my motive for the manner in which I treated its preamble. But I am not the less convinced that I did fail of my object in that part of the address, at least so far as it was a discourse to be read, and therefore that I did not avail myself of the treaty of peace in the best manner. *De non apparentibus et non existentibus eadem est ratio.* In a popular harangue, that which is not seen may as well not exist. I hope you will not think I began this letter with a conception where it was to lead me. I am yet to thank you for the good will and intrepidity with which you have defended some of the points upon which the address was assailable and assailed, even at the hazard of some collisions with your warm federal friends and associates. Of this at least I can assure you there were no sordid or selfish aims mingled with my motives for delivering that address, or

for uttering any one word that it contains. With its reception by my countrymen hearers and readers I am well satisfied. But I shall not deny to you that it was spoken not alone to my countrymen. It was meant also for the hearing of other ears and the reading of other eyes, for other regions and other languages. Like the famous Epistle to Posterity it may never reach its address; but I spoke to and for *man*, as well as to and for my country. The *legitimacy* of colonial dominion and of *chartered* liberties are questions of deeper and more overwhelming interest to other nations than to Britain at this time, and if the Holy allies of Laybach and their subjects do not hear the sound of the trumpet upon Zion, it shall be for the want of dimensions to the instrument that bore the blast, and not of willingness in the breath that inspired it.

I have learnt with much pleasure from your letter to Mr. Brent that your establishment prospers — not only as it concerns your interest, but as it bears on the public mind and morals. I have no doubt that its influence upon both has been and will be upon the whole salutary. You will not expect the concurrence of any one in all your sentiments, either of praise or blame, and if you have once or twice touched with unheeding hand the ark of our Union, I admit that it was when it was shaken by the stumbling of its bearers.

I close this letter with feelings of seriousness approaching to sadness. Like the former it is entirely confidential. You will make any use of it in the way of *hints*, as you did of the former, at your discretion and at your own times. To the parts of it which are defensive against your own censures I do not wish for a reply, either public or private. If I appeal from the censuring part of your sentence, it is only to your own breast, and I am well aware that

others might appeal perhaps with more propriety from its indulgence.

I remain, etc.[1]

TO HYDE DE NEUVILLE

Department of State,
Washington, 28 July, 1821.

The Secretary of State has submitted to the consideration of the President of the United States the note which he had the honor of receiving from his Excellency the Baron de Neuville of the 9th instant, particularly the translation of the Baron's note of the 4th of April last.[2]

[1] "I am glad of having this opportunity of thanking you for the article in one of your late papers, headed 'Self-Respect.' I do not know that there is a word in it to which I would not subscribe. I strongly doubt whether the project to exhumate and transport the remains of the spy and truce-breaker, and slanderer of his heroic captors ought to be permitted at all; and if there had not been within these two years, a solemn procession from very honest people for the funeral of *Mister Hutton*, I should have thought the project of the New York procession outrageous beyond a parallel. There is but one thing to be said in palliation of André's conduct, and that arises from the nature of the war in which he suffered — a civil war, in which minds even of the highest refinement might, and in numberless instances, did believe our cause to be *rebellion*. There should be some, and I am willing to yield a large allowance of moral obliquity resulting from that primordial error, and I would even give the benefit of it to the memory of André. But it is impossible to do him honor without insulting all that was great and glorious in our cause. The invective upon Washington in Miss Seward's 'Monody' is not the less despicable for being the false conception of a female muse, and I dare say you have seen as I have the very parliamentary monument in Westminster Abbey, erected to adorn with sepulchral glory this Pandar of treachery, exhibiting all the national malignity in the mutilation of the figure of Washington." *To Robert Walsh*, August 4, 1821. Ms.

[2] Of the note of the French minister Monroe wrote: "His proposal is, that we submit to the utmost degree of humiliation. It is, as you justly observed, the order of a superior to an inferior. It is even worse, much worse. An inferior may

When that note was in the first instance received as a *confidential* communication, it was immediately perceived that [a reply to it, such as its purport appeared on the part of the government of the United States to require, must

submit to hard conditions from necessity, and that necessity is his justification. This may be done without dishonor. But to acknowledge error, and to impute it to the subaltern officers of the government who had understood their orders correctly and obeyed them faithfully, and who of course were not only innocent of any crime or misconduct, but had merited well of their government and country, would be an act of degradation and humiliation, of which I do not recollect in history a single example. If we were to submit to this, the proud character of our country would be gone, a pride, not founded in vain ambition or false pretensions of any kind, but in the purity of our principles, and in the firmness and steadiness with which they have been maintained in all our transactions with foreign powers. . . . Nothing therefore being more remote from the views of this government than any concession which should dishonor it, a proposition to that effect can be viewed in no other light than an unmerited outrage. The government, however, is not willing to make that a motive of action beyond what a just sense of what is due to its own character rigorously imposes. All further negotiation on this point must cease." *Monroe to Adams*, July 12, 1821. Ms.

"I had nearly prepared the draft of a reply to the last note of the French minister, but shall avail myself of the suggestions in your letter to make some additions to it. But as in this reply I have indulged rather freely my own feelings in descanting upon the offensiveness of his proposal, and as on other occasions, I have derived so much benefit from your revising hand, I shall ask permission to send it to you before transmitting it to him, and hope to forward a copy of it to you by the next mail." *To the President*, July 14, 1821. Ms.

The draft of the reply to de Neuville was sent to Monroe on the 17th and was retained by the President until the 23d; "believing that the present discussion with Mr. de Neuville is of very high importance in its relation to France as well as the attention which it will attract at home, especially should the difference not be accommodated. . . . I have considered much on the subject, and attach the highest importance to your note for the whole administration, and of course those to whom it more immediately relates. . . . The argument of your paper I have only time to add is sound and able. The effect on the government of France through the minister is what is particularly to be guarded against." *Monroe to Adams*, July 20 and 23, 1821. Ms. "There is good cause to believe that we have much to apprehend from the hostile feeling of many of the sovereigns of Europe towards us, and that war with them is not an improbable event, should it be practicable on their part. The movement in Europe forms an issue between most of the

necessarily have a tendency to foreclose all discussion with the Baron de Neuville upon the objects of important interest to the two countries, which had formed the special occasion of his return to the United States. Unwilling thus abruptly to break off an important negotiation upon a point which to the American government seemed not to deserve even the name of a secondary interest, and upon which the Baron de Neuville had then avowedly received no instructions from his government] [1] it was proposed from this Department that the reply to that note should be postponed, with a view to take up the subjects upon which the Baron had been instructed, and to ascertain whether the ideas of the two governments could be brought nearer to each other concerning them, than it was apparent could be accomplished in regard to the cases of the *Apollon* and *Eugène*. To this arrangement the Baron de Neuville acceded, with the under-

sovereigns and their subjects, and the United States are regarded as the natural ally of the one and enemy of the other, without other agency than the mere force of example. If the progress should be such as to make our overthrow presumable, or to excite despair with the sovereigns, the attempt may be apprehended. I therefore deem it highly important, in every occurrence with every power, that without making any concession, or omitting anything due to fair argument, we use the most conciliatory terms in our power. . . . An answer in a spirit of moderation he undoubtedly has no right to expect. I should not be surprised if he should state that he had yet received no instruction from his government on it, and apologize for the proposition he had made. In any event the rejection of his proposition, the avowal of the order, the defense of it, the exposure of the smuggling scheme with all the details attending the attempt, . . . will I think place us on strong ground." *Ib. to Ib.*, July 24, 1821. Ms. See also a letter from Monroe, July 27, in *Writings of James Monroe*, VI. 190.

[1] The following was substituted for the sentences in brackets: "if the condition which it seemed to impose should be adhered to on his part, all hope of a satisfactory arrangement of the commerce between the two countries must cease, unless the United States should make very mortifying concessions on a point altogether unconnected with it, and in which they were under the deepest conviction that they had committed no wrong. Unwilling that a negotiation on so important an interest should thus be broken off," etc.

standing that his letter of 4 April should, at his option, cease to be a confidential and become an official communication. A voluminous correspondence has since ensued upon the objects which had constituted the main causes of the Baron's return to his mission here, and it is with great regret that, as a result of that correspondence, the President has yet perceived no symptom of probability that the views of the two governments can be brought to coincide upon either of them. With regard to the claim of France upon the eighth article of the Louisiana cession treaty, the opinion of the President is unchanged; and the reply to the last note of the Baron de Neuville upon that subject may be expected at an early day. The Secretary of State is still waiting for new propositions from the Baron de Neuville upon the navigating question; and the Baron de Neuville, who since the date of his letter of 4 April, has received the instructions of his government concerning the cases of the *Apollon* and the *Eugène*, to which is added the case of the *Neptune*, by transmitting to this Department the translation of his letter of 4 April, is understood to have rendered it official.

In that letter the Baron de Neuville declared that in his opinion no "commercial arrangement could take place between our two nations so long as the *grave error*, which he had been induced to point out, should not have been *acknowledged* and satisfaction given."

This *grave error* had been so designated in a previous letter of the Baron de Neuville of 16 March last, to which he had been answered on the 30th of that month, that it could never be admitted as such by this government.

Between two parties, whether individuals or governments, having various objects of mutual interest to adjust together, a situation can scarcely be conceived, [more assuming on

the one part, and] [1] more humiliating [on the other], than that in which the [one] [2] should declare that he will come to no agreement upon one [3] subject of high acknowledged importance to both, until the other [4] should have *acknowledged* himself to have committed *a grave error* upon a subject totally distinct and having no sort of connection with it. [A situation in which one party *dictates*, and the other *submits* to such terms, would seem to be susceptible of no additional aggravation, unless it should be that the party of whom such acknowledgment is required should have] [5] previously declared that he never could make it. Yet this was the law which the Baron de Neuville's note appeared [determined] [6] to impose upon the American government.

In his note of the 9th instant he renews [and renders official] [7] the demand that the American government should *acknowledge* that a *grave error* has been committed in the cases of the *Apollon*, the *Eugène* and the *Neptune*, with the explanation that this error is imputed only to subordinate officers. [And he thinks it interests the dignity of the crown of France, that a clerk in the Treasury Department, a collector of the customs, and the officers of a revenue cutter should *be acknowledged* to have committed a grave error, by mistaking the purport of their instructions from the government.] [8]

The objection to making this acknowledgment is, that it

[1] Struck out.

[2] These phrases were made to read: "more humiliating to the one, than that in which the other," etc.

[3] "a."

[4] "former."

[5] These words were struck out, and "and in a case in which he had" substituted.

[6] Struck out.

[7] *Ib.*

[8] Struck out, and the following substituted: "who had, as he presumes, mistaken the purport of their orders from their government."

cannot be made consistently [either] [1] with [truth or] [1] justice. [Neither the clerk in the Treasury, whom Baron de Neuville has thought proper to name] [2] nor the collector of the customs at St. Mary's, mistook his orders or instructions. It is not [the practice of] [3] the American government [to] [4] discharge upon subordinate executive officers, who have faithfully done their duty, the responsibility which properly belongs to itself. A copy of the order of the 6th of May, 1818, from the Treasury Department to the collector of St. Mary's has already been communicated to the Baron de Neuville. That order having been issued more than two years before the act of Congress of 15 May, 1820, imposing the new tonnage duty on French vessels, it cannot be necessary to say that no proceeding under it could be intended to impair the dignity of the crown of France, or to commit an injury upon any French subject. The Baron de Neuville, in his letter of 4 April, appears to have mistaken the object and purport of this order; he supposes it to have reference only to pirates. He will find by recurring to it that it was issued on a previous "*practice of British vessels* in the River St. Mary's, in eluding the revenue laws [of the United States] by anchoring on the south side of the river, and carrying on a smuggling trade with the northern shore."

The order then observes: "it is understood that there is no Spanish town on the southern shore to which these vessels resort for the purpose of legitimate trade. Their conduct must, therefore, be considered as an outrage upon our laws. If they intend to trade with the United States, they must conform to the law regulating that trade."

[1] Struck out.

[2] This was changed to read: "as the Baron de Neuville will be sensible when informed that neither the clerk in the Treasury."

[3] "desired that" was substituted.

[4] "should."

It then proceeds to direct the collector of St. Mary's "to enforce the revenue laws upon all vessels entering the River St. Mary's, without regard to the side of the river in which they may anchor."

It adds that those which should be there at the receipt of the order must "forthwith depart, or enter their cargoes at the custom house; and those which might thereafter arrive must be considered as within the jurisdiction of the United States, and subjected to the revenue laws in every respect." An exception to the operation of the order was directed in the case of *Spanish vessels*.

The justification of this order rests upon the well known principle of natural equity and of the laws of nations, that all rights of property must be so used and enjoyed as not to do wrong to another.[1] The territorial right of Spain on the south side of the river, sacred and inviolable so long as it was used for just and lawful purposes, forfeited that sanctity from the moment when it was made the resort of persons who *could* be there for no other purpose than wrong

[1] "'In general no work can be constructed upon a river, or elsewhere, prejudicial to the rights of others. If a river belongs to one nation, and another has incontestably the right of navigation upon it, the first cannot build a dyke or mills upon it, which would render it no longer navigable; its right in this case is only a limited property, *which it can exercise only by respecting the rights of others*.' Vattel, B. I., ch. 22, § 272.

"This passage is cited only as authority for the principle. The Baron de Neuville will perceive how much stronger for the application of the principle is the case in discussion between us than that put by the author. The case put by the author is of a river *wholly* owned by one nation, and upon which the other has only a right of navigation. The case in discussion is of a river (St. Mary's) half of which, together with the right of navigation upon the whole, belonged to the United States. The case put by the author prohibits the erection of *dykes* or *mills*, works useful and laudable in themselves, but which would be prejudicial to the right of another. The case in discussion is further tainted with moral turpitude, with false pretences, and the perversion of official proceedings — all exclusively for the purpose of defeating the laws of the neighboring nation." — Note in original.

to the United States. The use and navigation of the river, being common to the United States and Spain, was so far subject to a common jurisdiction, that the United States had a right to take all measures upon it necessary to protect the execution of their own laws from fraud or smuggling. This necessity did indeed apply as well to the cases of pirates and of slave-traders, as to the British smugglers. The laws of the United States would have been equally prostrate before them all, if they could have carried on securely their nefarious traffic by merely anchoring on the south side of the river.

The order was executed with regard to the British vessels which were there at the time, and the River St. Mary's ceased to be the receptacle of slave-traders, pirates and smugglers. But when the act of Congress of 15 May, 1820, imposed an extra tonnage duty upon French vessels, a project appears to have been formed of defeating entirely its operation by means of this same fraudulent use of the Spanish territorial right, south of St. Mary's River. From the two letters of the Spanish consular agent, G. I. F. Clarke, copies of which have already been transmitted to the Baron de Neuville, it is evident that this project was very deeply laid, and comprehensively meditated; including even the avowed design of protracting the unpleasant state of commercial collisions between the United States and France, which it was the express object of the Baron de Neuville's renewed mission to adjust.

In execution of this project an application was made to the governor of East Florida, to *constitute a port*, not exactly on the south side of St. Mary's River, but a few miles higher up, on the shore of one of its branches, Bell River — to *constitute a port* where there was neither town nor settlement to carry on *any* lawful trade whatever! The governor of

East Florida had no authority from his government to *constitute a port* anywhere. In the declaration of Captain Edou, transmitted by the Baron de Neuville to the Department of State he says that the governor of St. Augustine himself told him that which he had already learnt from the consular agent in St. Mary's (G. I. F. Clarke), that a request to open and establish a new port of entry in the River Bell had long before been made to his excellency the governor general of Cuba, *and had not as yet been answered.*

Yet this self-same G. I. F. Clarke undertook to declare officially to the collector of the customs at St. Mary's, by his letter of 14 September, 1820, that the port had been established.

The real fact was, as Edou himself declares, that he had made entry of his vessel, not at the port of St. Joseph, but at the port of St. Augustine, to which he had travelled all the way from Amelia Island for that purpose. He had also travelled all the way back accompanied by M. A. Gay, whom he had chosen to make the entry, and by Don Domingo Reyes, deputy collector at St. Augustine, who was commissioned to ascertain the exactness of his manifest and declaration, *and to whom he paid five dollars and a half per diem besides considerable travelling expenses.*

Here then was a vessel *entered* at St. Augustine, but lying eighty miles off, at Amelia Island; and an ambulating deputy collector who, instead of waiting for the ship to come to the port, is largely paid by Captain Edou for going to the ship, to save him the time and trouble of ever entering in fact at St. Augustine at all. When they come to the ship, the deputy collector and the consular agent Clarke, both advise that she should be removed. Where? To St. Augustine, where she had been entered? No; but up into the River Bell, close upon the border of the United States, with which

the *real* traffic was to be clandestinely carried on. [Fraud and falsehood are stamped upon every step of the proceeding;] [1] and to close it [2] with consistency [of character],[1] Clarke officially declares to the collector of St. Mary's, that a port *has* been established in Bell River, where both he and Governor Coppinger had told Edou that the application to the governor of Cuba to establish it *had not been answered.*

[Captain Edou appears, indeed, in the simplicity of his heart, to imagine that in all this *he* had taken care to keep on the safe side of the law; and he takes it much to heart that anything like an intention of smuggling should be imputed to him. Yet he avows that he *entered* his vessel at St. Augustine without ever intending to go there; that his real intention was to trade with the United States, and at the same time to evade the payment of their duties. But he was *advised* by his consignee at Charleston, he was *advised* by the Spanish consular agent at St. Mary's, he was *advised* by the deputy collector of St. Augustine, whom he so liberally paid for his advice and his travels; and with all this advice and all this expense, he thinks the falsehood of his *entry* at St. Augustine, and the intended fraud upon the revenue of the United States, by his position in the fictitious port of St. Joseph, are to be accounted just and honorable acts of fidelity to his employers.] [3]

It was while his ship lay in this situation, [under color of a formal but false entry at St. Augustine, lurking on the borders of the United States,] [3] that the collector of St. Mary's wrote to the Treasury Department to enquire, whether the order of the 6th of May, 1818, was to be considered *as applicable to this case?* The chief clerk of the

[1] Struck out.

[2] "this proceeding" was substituted.

[3] Struck out.

Treasury, having received the letter in the absence of the head of that Department, applied to the Secretary of State for his opinion upon the question, and received for answer *that it was.* In consequence of this answer, of which the collector of St. Mary's was as soon as possible apprized, Captain Edou was required, conformably to the order, either to make entry and pay the duties at St. Mary's, or *to depart;* and having refused to do either, and threatened violent resistance to any attempt to compel him thereto, his vessel was seized for violation of the revenue laws of the United States, and libelled in the court of competent jurisdiction for the trial of that offence.

The Baron de Neuville will perceive that the order of 6 May, 1818, was issued by direction of the President of the United States; that the opinion that it was applicable to the case of the *Apollon* was given by the Secretary of State himself; and he confidently leaves it to the Baron's own sense of honor and justice to say, [what feeling that may become a man would be respected in the *acknowledgment*, made at the dictation of the Baron de Neuville, that][1] in this transaction [Mr. Jones, the chief clerk in the Treasury Department, and the collector of customs at St. Mary's had committed a *grave error*, by mistaking the purport of] [1] their instructions. They committed no error. They understood and executed their instructions as they were given.

[Nor could the Secretary of State, were he so disposed, avail himself of the kind suggestion of the Baron de Neuville to reconcile him to this *imposed* acknowledgment, that when he declared the admission *never could be made*, he had not been in possession of all the documents; and particularly

[1] Struck out, and the following substituted "how far it would be proper in this government to declare that in this transaction certain subaltern officers in the Treasury Department had mistaken."

that he had not seen the endorsement of Mr. Pringle, the collector at Charleston, of 17 August, 1820, upon the letter of Mr. Le Maitre asking advice for Captain Edou, whether he might go to Amelia Island without paying the tonnage duty of 18 dollars. This is a grave error of the Baron de Neuville. Copies of the letter from Mr. Le Maitre to Mr. Pringle, and of Mr. Pringle's endorsement upon it, had been transmitted to the Secretary of State by Mr. Roth on the 30th of December last; but they are not of the slightest importance to the case.] [1] It was not for going to Amelia Island that the *Apollon* was seized; but at Amelia Island the [clandestine] [2] trade with the United States could not be carried on. For that purpose the [false] [2] entry at St. Augustine, the removal of the ship into Bell River, the travelling deputy collector, and the *pretence* of a constituted port of St. Joseph were necessary. Of all this, of course, Mr. Pringle's endorsement says nothing.

The Baron de Neuville says, that "soon after Captain Edou's arrival at Amelia Island he heard of a newly created port, in which he could procure American produce with more ease and no doubt at less expense." Captain Edou's own declaration, [transmitted by the Baron de Neuville himself,] [2] says on the contrary that both Clarke, the Spanish agent, and the governor of St. Augustine told him that the application for the new port had long before been transmitted to the governor general of Cuba, *who alone had the power* to constitute the port, and that *no answer had been received.*

The port of St. Joseph, therefore, had no other authority

[1] Struck out, and the following substituted: "The Baron de Neuville refers to Mr. Pringle's endorsement upon a letter of Mr. Le Maitre, certifying that Amelia Island was not a port of the United States."

[2] Struck out.

whatever than that of this same G. I. F. Clarke, and the purposes for which he constituted it are explained by himself in his two letters of 15 and 17 September, 1820, to James G. Forbes, copies of which have been communicated to the Baron de Neuville. In his letter of 4 April the Baron observes, that these two letters could not have contributed to the seizure of the *Apollon*, for which orders were issued in Washington on the 9th of September, six days before the very existence of these papers. This conclusion is correct. The instruction from Washington was, that the order of 6 May, 1818, was applicable to the *Apollon*, under the statement of the facts, by which it appeared that she had been removed from Amelia Island and anchored in Bell River. And if there could have been any possible doubt whether it was applicable at the time when the opinion was given, the declaration of Captain Edou himself would have removed it. For whoever will read those declarations, and then recur to the order, will immediately see that it could not more completely have applied, had it been issued specially for that case itself. The mere fact of the removal of the ship from Amelia Island, and being anchored in the Bell River, where she *could* have no traffic but with the United States, was sufficient to show that she came within the purview of the order of 6 May, 1818. It was upon that state of facts that the opinion was given. The ship was moored where she *could* be for no purpose of [lawful] [1] trade with Florida. Her manifest object was to evade the laws [and defraud the revenues] [2] of the United States. She had the option offered her; either to depart, or to make entry at St. Mary's and pay the duties. Captain Edou refusing to do either, the ship was seized and libelled for a violation of the revenue

[1] Inserted.

[2] Struck out.

laws of the United States. The *conspiracy* to prostrate the laws of the United States and to defeat the object of Baron de Neuville's new mission, [by prolonging and embittering the misunderstanding which it was his charge to adjust and reconcile,] [1] was not then known to the American government. This has been made known and demonstrated since by the letters of Clarke and the declarations of Captain Edou himself.

The Baron disclaims the defence of Clarke, because he is not a French subject, and he supposes him even to be a citizen of the United States. Upon the same principle [he might have been told from the beginning] [2] that Bell River was not French territory; and that, if a French subject has suffered wrong in Spanish territory, it is not to the United States, but to Spain, France must have recourse for satisfaction. [This is all but the outward shell of international controversy.] [3] The inviolability of a territorial line consisting of the middle of a river; the question whether a recognized Spanish agent was a Frenchman or an American; the establishment of a *port of entry* in a desert; the custom house entry at St. Augustine of a vessel anchored at Amelia Island; the question whether for an act done to a Frenchman on Bell River by an American officer, France should complain *directly* to the United States, or *indirectly* through Spain, are all essentially of the same character. [They are sacrifices of substance to form; at least on this occasion.] [3] Upon the peremptory demand for an acknowledgment of a grave error, the least that can be expected is, that the case should be examined upon its *real merits*, [and not upon the mere machinery of forms].[3]

[1] Struck out.

[2] Struck out, and "it might be observed" substituted.

[3] Struck out.

The Baron de Neuville is of opinion that whether such a conspiracy as has been signalized did or did not exist, Captain Edou had no participation in it; that relying upon the sanctity of the Spanish territory, his conduct was mere legitimate commercial speculation; and that although he had taken his stand as close upon the limits of the law [as upon those of the United States] [1] he had yet so managed as to avoid transgressing either of them.

This is a question depending upon a complication of the law and the facts suitable for the investigation and decision of a judicial tribunal.

By the 14th section of an act of Congress, to regulate the collection of duties on imports and tonnage, it is provided that

the district of St. Mary's shall comprehend all the waters, shores, harbors, rivers, creeks, bays, and inlets, from the south point of Jekyl Island, exclusive, to *St. Mary's River inclusive:* and a collector for the said district shall be appointed, to reside at St. Mary's.

By the 29th section of the same law it is enacted,

that if any ship or vessel which shall have arrived within the limits of any district of the United States from any foreign port or place, shall depart, or attempt to depart, from the same, unless to proceed on her way to some more interior district to which she may be bound, before report or entry shall have been made by the master, or other person having the charge or command of such ship or vessel, with the collector of some district of the United States, the said master, or other person having such charge or command shall forfeit and pay the sum of four hundred dollars; *and it shall be lawful* for any collector, naval officer, surveyor, or commander of any of the cutters hereinafter mentioned, *to arrest and bring back, or cause to be arrested and brought back*, such ship or vessel, to such

[1] Struck out.

port of the United States to which it may be most conveniently done.

By entering into St. Mary's River, the *Apollon* did therefore arrive within the limits of the District of St. Mary's, and by the declaration of Captain Edou she did arrive there for purposes of trade with the United States. She did depart from thence, not to proceed on her way to some more interior district, but to be posted on the borders of the United States, for the avowed purpose of evading their laws. It was and is the opinion of the executive of the United States that this was a direct and positive violation of the laws of the United States; and it was for violations of the law of precisely this description, that the Treasury order of 6 May, 1818, had been given.

The boundary line between the United States and the Spanish territory of Florida was then *the middle* of St. Mary's River. A boundary of this description is, and in its nature always must be somewhat indefinite. It gives, by the universal usages of nations, the right of navigating *the whole river* to each of the parties proprietors of one-half of it, and to each party the right of removing from it any hostile annoyance to its laws. The removal of the *Apollon* three or four miles higher up to a branch of the river both shores of which belonged to Spain, though it marks a project more craftily laid than it would have been to have anchored on the south side of the river, directly opposite to St. Mary's, changes nothing in the moral character of the transaction. The waters were continuous, and all included under the general denomination of St. Mary's River. The purpose was the same — [defiance] [1] of the laws [and fraud upon the revenue] [2] of the United States.

[1] "Evasion" was substituted for this word.

[2] Struck out.

It is estimated by the Baron de Neuville, that even admitting there was a conspiracy against the laws of the United States, and that Captain Edou participated in it, yet inasmuch as he was within the Spanish territorial line, the government of the United States could not rightfully expel him thence, or molest him there; that they ought to have remonstrated to the governor of Florida against this injury to their rights; and that it is more than probable that he would have immediately given a counter order.

The government of the United States were in no relations of communication with the government of Florida; and if they had been, they knew that upon any representation to him from them, he would have referred them to the governor and captain general of the island of Cuba, and he to the Spanish government at Madrid. How rapid the progress of reparation would have been there, we need not surmise. That years would have passed away in enquiries and negotiations, experience will justify us in concluding. Had the fact been as the agent Clarke declared it was, that the governor of Florida had constituted a port, it was too evident that the only means remaining to the United States for obtaining justice was to do it themselves. The jurisdiction of Spain on the south side of St. Mary's River was merely nominal. There was no settlement, no officers, civil or military, with powers to remove the nuisance to the United States, whether of pirates, slave-traders or smugglers. A few months before the order of 6 May, 1818, Amelia Island had been wrested from the Spanish government of Florida, by a band of less than two hundred adventurers, from whom Spain had been unable to rescue it, and from whom the United States had been compelled in their own defence to take it. For many years the territory of Florida had been at the mercy of foreign nations, of Indians, and of negroes,

and had been used by all for purposes of annoyance to the United States. Complaints had been made to the governor of Florida in some of these cases. He had pleaded *the want of power* to give redress, and no redress had been obtained. It was, therefore, necessary for the United States to vindicate their own laws by their own authority. The Baron de Neuville supposes it impossible that an order, intended to operate upon pirates and slave-traders, should be considered applicable to a French vessel, engaged in *regular commerce*. But this was not the case of the *Apollon*. She was not engaged in regular commerce. The entry at St. Augustine of a vessel at Amelia Island was not regular commerce. The posting of the ship in Bell River was not regular commerce. There was no regular commerce between the United States and Bell River. It was *irregular* commerce for which the *Apollon* was stationed there, and it was to prevent such commerce that the order of 6 May, 1818, had been issued. Had the *Apollon* been a pirate, or laden to the water's edge with slaves, her captain might have alleged *all* the same grounds of complaint against the seizure by the officers of the United States, which are exhibited by Captain Edou; nor could the purpose of a pirate or slave-trader in mooring at that spot have been more directly hostile to the laws of the United States, than was that of Captain Edou.

It is this combination of circumstances which constitutes the essential difference between the case of the *Apollon* and that of vessels engaged in *regular commerce* at frontier ports. That American vessels, going to Passages or Nice, *may* carry on from thence a smuggling trade with France is not denied; and if detected in it by France, will doubtless bear its penalties. But by going there in full conformity to the laws of the United States and of the country where those ports are situated, they violate no law, either in deed or intention.

By trading from those ports with the adjoining ports of France, conformably to the laws of France and of the country whence they trade, no law is violated; the commerce is strictly regular, and neither the practice nor intention of smuggling can be charged upon them. But if, by the connivance or corruption of subaltern officers of the bordering nation, an entry of form into one of those ports, for a vessel eighty miles distant from it, never intending to enter it, and for the express purpose of *unlawful* trade with France, should be made; if the pretence of a port of trade should be set up in a desert, close upon the boundary of France, and for the avowed purpose of illicit trade with France; and if all this should be done in the face of the French authorities, on a river half belonging to herself, with a desert shore and no existing authority on the other; then indeed would the cases be parallel, and then, should the government of France give to the Captain of such an American vessel the choice to depart from the waters of the river, or to enter the port of France, and submit to the operation of its laws, the government of the United States would assuredly neither take it as an indignity offered to them, nor exact from France an acknowledgment of error for it, as a condition to precede the adjustment of other interests between the two nations.

The President yet thinks that the seizure of the *Apollon* was justifiable both by the laws of nations and by the statute of the United States above cited.[1] The American government has no motive for bearing hard upon the honor or reputation of Captain Edou, and heartily concurs in the sentiment of the Baron de Neuville, that the honor of the humblest individual is an object of interest to his country. But the object of Captain Edou, by his own declaration, was

[1] The following was inserted: "and that he should have failed in the duty imposed on him by the law, if he had not given that interpretation of it."

to trade with the United States, and yet evade the operation of their laws. [His *means* were a *false* entry of a ship at St. Augustine, and a location of her at a spurious port of St. Joseph, which he knew had no existence. Whether this was taking his stand upon the limits of the law or not, need not further be enquired; but if it was, assuredly that law was not the law of honor.] [1]

The Baron de Neuville enquires "on what principle a French vessel should be denied in America the privileges enjoyed by American vessels in Europe" and observes, if it is possible to carry on smuggling between Florida and the United States, may it not equally be done at Nice, Passages, etc., etc., and in all other ports situated near a frontier. [The substance of this argument is that because Americans *may* smuggle from Nice and Passages into France, therefore Captain Edou had a right to smuggle from Florida into the United States. Although it is difficult to understand the note in the Baron's letter of 4 April in any other sense, yet the Secretary of State cannot believe this was its meaning. Surely] [1] the Baron de Neuville [can discern] [2] the difference between vessels going in lawful trade to acknowledged open ports, and thence in fair undisguised traffic with other ports in the neighborhood, *escaping* from the aggravated duties of a direct commerce, and vessels making a [false] [3] entry in a port eighty miles distant from the ship, vessels resorting to [an imposture of] [3] a port in a desert for the express and avowed purpose of traffic with another country in defiance of its laws. [As well might the entry into a neighbor's house at noonday to pay a friendly visit, be likened to the entry into the same dwelling of a midnight robber to plunder or to burn the house.] [3]

[1] Struck out.

[2] "Must nevertheless admit" was substituted.

[3] Struck out.

The suit of the United States against Captain Edou and his ship has, however, been discharged, and his vessel has been restored to him. This was done, not from an opinion that the seizure of the ship had been unlawfully or improperly made, but from a disposition as far as possible conciliatory towards France, and particularly to the warm interest which the Baron de Neuville had taken in the case. [It is to be regretted that the measure was not received by him in the spirit in which it was adopted.] [1]

It is understood that an action has been commenced by Captain Edou against the collector of St. Mary's for the seizure of this ship. The legality of that act will be tried also upon that suit; and should it upon the trial prove to have been unwarranted by law, Captain Edou will recover such damages as he may be entitled to by law. All the private interests, therefore, concerned in this transaction will receive that protection which is appropriate to them.

It was remarked in a former note from this Department that the spot which Captain Edou and his advisers had selected for these transactions could scarcely be considered as a Spanish territory, since it had been nearly two years before solemnly ceded to the United States [and ought then to have been in their possession as their own. To this the Baron de Neuville replies by an argument which appears not remarkably relevant to the subject in discussion, upon the question whether a treaty has any force or value before its final ratification. It will not be necessary to controvert the opinion of the Baron de Neuville upon this subject. As he himself has produced a full power from his sovereign promising on the *faith and word of a king to accept, accomplish and execute whatever* he, the Baron, shall have stipulated, promised and signed in his name, it is not to be sup-

[1] Struck out.

posed that he intends to assert that these words are without meaning: and if they have any meaning, the assertion by this Department, contested by the Baron, is fully maintained, and the Floridas *ought* to have been in possession of the United States as their own, long before Captain Edou's expedition to Bell River to *take his stand on the very limits of the law.*

In the altercations submitted to the decision of judicial tribunals, from the imperfection of all human institutions it often happens that the determination is governed more by positive regulation than by moral principle. The *law* is not always the same as the justice or equity of the case. But in the transactions of nations, positive regulation is or ought ever to be subordinate to the principles of eternal justice. The ratification of a treaty is a formality, essential to the *form* of its conclusion, and therefore to its validity. But when that ratification has been solemnly promised in the face of God and man, upon the faith and word of a King, the statesman may be pitied who is reduced to the necessity of maintaining that the *right* of one party has been forfeited by the perfidy of the other, and that the *royal promise* was of no avail for the want of wax to the deed of performance.

It is with no sentiment of satisfaction that the remark obtrudes itself upon the consideration of this affair, that *all* the reliance of Captain Edou for his justification, and that of his complaint against the American government, are of this description — all dependences upon the perversion of forms and the abuse of regulations. He makes entry of his ship at St. Augustine, without a thought of going there, but as a cover for trading with the United States, in real violation of their laws. He posts himself upon Bell River, at a spurious port of St. Joseph, for the same purpose. He pays profusely Spanish officers of the customs for aiding and

abetting him in the fraud. A Spanish agent, enjoying the protection of our laws, combines with and inspirits him to the deed, with the avowed purpose of frustrating the laws of the Union, and prolonging our differences with France; and because the authorities of the United States cross an imaginary line in the middle of a river, and dislodging him from his lurking place, compel him to depart, we are to be told of violations of territory, and insults to flags; that the dignity of the crown of France is interested in the mercantile speculations of Captain Edou; and that no adjustment of commercial interests highly important to both nations is to be expected, unless the American government shall acknowledge a grave error to have been committed, though it never was committed, by a clerk in the Treasury Department and the collector of the port of St. Mary's.] [1]

The American government is in this case conscious of no error to acknowledge in itself, and knows that none has been committed by the subordinate officers [2] [denounced by the Baron de Neuville. It has felt the demand of such an acknowledgment as a proposal which nothing but an anxious desire of conciliation with France could justify it in meeting otherwise than by direct, positive, and instantaneous refusal. It had hoped that having been originally made as confidential, it would have been upon deliberate reflection withdrawn. I am directed by the President of the United States to inform you, that after this frank explanation all further discussion between us of *that* proposal must cease, and that this answer concerning it is definitive.

Upon any other subject of interest to the two nations, or to your mission, and particularly upon that relating to the commerce between them, I shall be happy to receive

[1] Struck out.

[2] "under it," inserted.

your communications whenever it may suit your convenience.] [1]

I pray you, etc.

TO THE PRESIDENT

[James Monroe]

Washington, 31 July, 1821.

Dear Sir:

The Baron de Neuville called at the office of the Department yesterday, and asked an explanation of one or two passages in the note which I lately sent him concerning the case of the *Apollon*. He seems now disposed to change his ground, and to rest his complaint in that case upon the fact of the vessel's having been *seized*, and not having been allowed the option of going away. The two other vessels, the *Eugène* and the *Neptune*, he admits were allowed to go away and did go. He also lays much stress on the statement of Edou that Captain Payne, commander of the fort at Amelia Island, told him "*he might act as he chose in Amelia river, and might even unload his cargo on Tiger Island, opposite Amelia, and make use of two uninhabited houses on it as storehouses*"; but that he would not allow him to have any commercial intercourse with Amelia Island.

I told Mr. de Neuville that admitting this statement of Edou to be true, it did not alter the nature of the transac-

[1] Struck out, and the following substituted: "The Baron de Neuville will see that nothing disrespectful or unfriendly to France was intended; that the order, in its origin, did not apply to her, and that its application to the cases, in favor of which he takes an interest, was a necessary consequence of that impartiality which was due to its own character. The Secretary of State indulges a strong hope that this explanation will be satisfactory. He gives it in that spirit of candor and good will which is indulged by the United States towards France."

tion, and that the seizure of his vessel was in consequence only of his *resistance*. That the *intention* of the government was manifested by the option given to the two other vessels, and there has been no motive of treating Edou differently from the rest. I suppose I shall have a note of eight or ten sheets upon these notable points.

With regard to the Louisiana convention claim, you will recollect that, after a very long reply to my last note to him, he concludes by saying he shall propose to refer the subject for *future negotiation*. I am now to answer him again, and must ask your instructions whether to consent to, or refuse future negotiation upon it. My own impression is, that to agree to future negotiation would be to give up our ground. There is nothing to negotiate upon. There is nothing, absolutely nothing, but chicanery in the claim.

In all this negotiation with France our experience hitherto has too clearly proved, that we get nothing by concession. You will see by the despatch from Mr. Gallatin which I send you, that Baron Pasquier has taken the *pro forma* decree of the district judge for the restoration of the ship as a decision upon the merits.[1] When I spoke to the Baron yesterday of the action of Edou now pending against the Collector of St. Mary's, he intimated that he neither knew nor cared anything about that action, and seemed to be displeased that it had been brought. I told him that so far as private rights were concerned, the judicial tribunals were entirely competent to their protection, and that if the treasury order of 6 May, 1818, or the opinion given by me that it was applicable to the *Apollon*, were not sanctioned by the *law*, they would not avail the collector in his defence. Captain Edou would recover damages if illegally seized, in spite both

[1] Adams, *Memoirs*, October 29, November 8, 1821; Adams, *Writings of Gallatin*, II. 184.

of the treasury order and of my opinion. I added that the private interests being thus protected, he knew that according to the *usual* practise of nations there was no public question between us and France in the case. If any jurisdiction had been violated, it was that of Spain. France might have her recourse to Spain, but she had in strictness no right to ask us a single question about it. We had, as he knew, never taken this ground, but he knew as well that, but for our disposition to give every fair and reasonable satisfaction to France, we might have taken it. I ask your special attention to his reply. "Oh, as to that, he said, his instructions were in a much higher tone than he had assumed. By his instructions he had been ordered to say, that France must have direct satisfaction from the United States, and that *she would not have a word to say to, or with Spain about it.*"

He finally said, that he should answer my note, and in the meantime would send a copy of it to his government, who would judge for themselves what they should do in the case. He had never intended to ask that the American government should acknowledge an error in itself, and as I now declared that the subaltern officers had not misunderstood their instructions, he could not expect an acknowledgment that the error was in them. He had expressed his own opinion upon the subject, and had thought from a conversation one day with me, that this matter would not have made a difficulty between the two countries. I desired him to recollect the circumstances of the conversation to which he now alluded. He had come to me and declared, that all the commercial and navigating questions, as well as that of the Louisiana claim, were of altogether trivial importance to France. That as to them France was ready to agree to almost any terms we should propose. Nothing would be

easier than for us to adjust them. But in the affair of the *Apollon*, her honor must be satisfied. My answer was, sir, to adjust the trifles with me upon any terms that we can accept, and we will not break with you for the affair of the *Apollon*. Sign a convention with me upon the commercial and navigating interests, abandon your untenable claim to exclusive privileges in Louisiana, *then* I will give you *carte blanche* for the *Apollon*. I will sign any paper you will draw up. I now repeat to you the same words. But observe, the things which you spoke of as of no importance to France must *first* be settled to our satisfaction, and *then* I will sign a paper to be drawn up by yourself — because, besides my general confidence that you would insist upon my signing no paper which I ought not to sign, I should have the special confidence resulting from your previous agreement with me upon all the points which, though in your estimate, of quite inferior moment, were in ours the only important things to adjust. But as you have not accepted my offer, you can hardly claim it of me as an engagement. Much less can you infer from an offer implying confidence in your generosity, a disposition to yield to, or sign anything derogatory to the honor of my country.

He then asked me what I had meant by saying in my last note that the Secretary of State was yet *expecting* to receive proposals from him upon the navigating question? I told him that it was in consequence of the offer in his note of [July 3], and my acceptance of it in my note to him of 5 July. He said he had made his proposals, and had none others to make. He had made his proposals. They had not been accepted, and *none had been made to him in return*. To judge of my surprise at this assertion you must have the whole correspondence before you. But I saw it was useless to debate the matter with him. I simply referred him to our

rejection of his basis of a mutual *reduction* of existing duties, and to our offer of a reciprocal discriminating duty upon the tonnage of the merchandise. He said he had no authority to treat upon any other basis than a mutual reduction, talked again of the reduction of one-third as the extreme limit of his powers, of reductions upon wines, and silks, and brandies, as equivalents for reductions in France even to the amount of one-third, in short of things canvassed and rejected three months ago, repeating ever and anon that he had made proposals which had not been accepted, and that none had been made to him in return.

My conclusion from all this is that it will be highly expedient that I should immediately make to him upon the navigation subject a direct and specific proposal in the form of an article for a convention. It will be best in my own judgment to offer him our *ultimatum* at once. Should you be of that opinion, I must ask your instructions what to offer. I would now send you a draft of an article for your consideration, but for the supposition that you would prefer a previous consultation with the members of the administration. I solicit your instructions as soon as may be convenient and remain, etc.

TO THE PRESIDENT

[James Monroe]

Washington, 3 August, 1821.

Dear Sir:

I herewith enclose a letter from Mr. Canning of the first of June with its enclosures, together with my draft of an answer for your revisal. Mr. Canning has repeatedly and very urgently applied for an answer.

I am afraid you will again think my draft unnecessarily harsh, and if so, request of you to strike out everything which may be justly deemed of that character. But I think you will observe little delicacy towards the American government in the tone of his note. I believe it to be important to hold up constantly on our part of the correspondence the *nature* of our objections to the proposals of Great Britain, and there is so much of a scolding in the remarks upon our declining their proposals, and upon our offered substitute, that I thought a spirited notice of them due in justice to ourselves. I presume you have seen how the Marquis of Londonderry has treated us in a recent debate on this subject in Parliament.[1]

I propose with your permission to leave this city of the 20 of this month, for an absence of two months on a visit to my native state. Among other inducements to this excursion the state of my father's health, which is infirm, is the most impressive.

I am etc.

TO CHARLES JARED INGERSOLL

WASHINGTON, 7 August, 1821.

DEAR SIR:

I think your conclusion has been judicious, in adhering to Bynkershoek and his Ambassadorial Law for the disposal of your leisure, rather than to bestow any part of it upon Don Luis de Onis. The first intimation I had that it was the *intention* of this "most excellent Lord" to give us a specimen

[1] On a motion of Wilberforce for an address to the King. See *National Intelligencer*, August 11 and 15, 1821. The communication in that issue, signed "Verax," was written by Stratford Canning.

of Spanish diplomacy, according to the estimate of it to which Lord Chatham testified from long experience, was a *look*. It was a glance of the eye and a muscular play of features in his countenance when he agreed to the 8th article of the treaty in the terms finally drawn up by me, and to which alone I would subscribe. He asked me what I understood by the words "shall *complete* them." I told him it was to confine the benefit of the exception to grantees in possession and having *commenced* settlements. It was on assenting to this explanation that his visage beamed with that ray which seemed to say, I have him in the toils. This look gave me a moment of uneasiness, as indicating a snare; but the draft, with the exception of the inserted date, was my own, and I had purposely drawn it so as to make the date perfectly inoperative as to the great grants.

We had no copy of the grant to the Duke of Alagon, but we had copies of the two others. On the morning of the day when we signed the treaty I recurred to the Spanish copy which we had of the grant to Count Puñon Rostro, and found it dated the 6th of February. The date in the article was the 24th of January, so that I thought there could not be raised so much as the shadow of a question upon the date. I signed the treaty, and it was from *you* that I received the next notice of Don Luis's mine. I dare say you will recollect it, as you called one morning on me just from the President's,[1] having left with him a gentleman who had discovered that all the three grants were dated on the 23rd of January, and that the 24th had been purposely selected by Don Luis to make them all valid. This was not the case. But two of them, which were royal orders to the governors of Cuba and of Florida to put the grantees in possession, though dated on the 6th of February, referred to the *grants* as having

[1] Adams, *Memoirs*, March 8, 1819.

been made in the preceding December. But Don Luis's story in his memoirs is incorrect in most of its facts.[1] It is not true that in all or any of the gazettes of the Union it was published that the agent of the Duke of Alagon had offered his lands for sale, or that they had been sanctioned by the date agreed upon by the treaty. The rivals of the Secretary of State did afterwards undoubtedly say that he had suffered himself to be deceived by the Spanish Minister, and no man took more pains to disseminate that idea than the Spanish Minister himself. But whatever he may have said to the signers, the Minister of France has never made any of the qualifying or contesting remarks to me which he says he made to him. It was through the Minister of France, and after long discussion with him, and upon the most explicit declaration on both sides that it annulled all the grants, that the article had been settled. It was therefore through the Minister of France that the declaration was demanded of him. He gave the declaration without intimating an objection, though with an ambiguity of phraseology importing all the intention of bad faith which he disclaimed. He was as ambitious of being thought a *perfide*, as Beaumarchais says women are of being called so. I have seen slippery diplomatists, more than one; but Onis is the first man I have met with who made it a point of honor to pass for more of a swindler than he was.

Onis's book will do us no more harm than did that of General Turreau. It is just about as wise, and bears the same sort of relation to truth. It did not even secure his immediate object, which was to convince the Cortes that he had obtained as good a treaty as was obtainable, and that if they did not like it, he had reserved for them a back door to creep out from it and refuse the ratification. They did not like

[1] *Memoir upon the Negotiations*, translated by Tobias Watkins, Washington, 1821.

the treaty, and Vivés with the ratification was expressly ordered to declare so, which he did; but there was a sense of honor upon them. They saw the true character of the pretence about the grants and were ashamed of it. They not only advised the ratification, but the declaration of the annulment of the grants in terms as explicit and unequivocal as we had desired, leaving Don Luis the credit of having intended a fraud without effecting it.

Your translation of Bynkershoek with the commentary, and still more your manual of international law, will afford you occupation more agreeable to yourself and more profitable to our country than a formal review of such trash as the Don has given to the world concerning us and our national character. With regard to the latter, I do not distinctly understand from your letter in what respect your plan differs from that of Martens, none of whose publications are mentioned among the books to which you have had or wish to have access. I have with me here only one of the writers whom you speak of as not having yet obtained, Callières, one of the very best writers on the subject. I send you this herewith, and also another work upon consuls—de Steck, whom however you must not implicitly trust any more than Borel or Warden. They were I believe all consuls themselves, seeking to magnify their office. Pecquet is a valuable writer, but I have him not here. His work is in the Library of Congress. You say nothing of the Abbé de Mably, three of whose works will I think have some relation to your purpose—the *Droit Public de l'Europe*, the *Principes des Négotiations*, and the *Entretiens de Phocion sur les Rapports de la Morale et de la Politique*. You will of course consult Montesquieu, whose distinctions between the different classes of laws are presented more distinctly and with more discrimination of deduction than I have found in any other writer.

It will give me great pleasure if I can furnish you in the course of your work either any other books, or any suggestion which you may find useful. You speak of Barbeyrac as one of the authors which you have or can command, by which I suppose you mean his translations into French of Grotius and Puffendorf with his Commentary, and also his translation of the very treatise of Bynkershoek upon which you are engaged. None of those works should be used as authorities but with his commentary.

I have felt as you did upon the project of an honorary procession through the City of New York to glorify the accomplices of Benedict Arnold. My own opinion is that his remains ought not to be suffered to be taken away, and if, as I apprehend they cannot be without a violation of law, I hope it will not be permitted.[1]

I read with pleasure of the numbers of the *Sketch Book* and have been diverted with the growling good humor of its English critics. Voltaire says that the first Catherine of Russia gained her ascendancy over the sublime and terrible Peter by scratching his head in his fits of frenzy. Geoffrey Crayon has tried something like such an experiment upon John Bull, and with some success. We must take credit for Geoffrey, though he is for a republican, rather too accomplished a courtier.

I am, etc.

[1] "I am really anxious that he [H. B. M. Consul Buchanan] and the other consuls should be made to understand the limited nature of their functions. Had Mr. Buchanan proceeded in the business as he had at first intended, I understand that he and his suite would probably have been pelted for their pains, and Major André's bones would have incurred an equal risk of being thrown into the water. Happily Mr. Baker was passing through New York about that time, and succeeded in making Mr. Buchanan sensible of his danger." *Stratford Canning to Londonderry*, September 4, 1821.

TO LOUISA CATHERINE ADAMS

WASHINGTON, 11 August, 1821.

MY DEAREST FRIEND:

Your letter of the 3rd instant only reached me yesterday. You reason exceedingly well, both upon my real character and upon that of which I have unfortunately got the reputation. I always receive with deference your counsel which I know to be generally judicious, and invariably intended in kindness to me. On the present occasion, however, I have many special reasons for the request in my former letter with which you promise to comply, though at the same time you dissuade me from it. I beg on this occasion to be indulged with my humor. I well know that I never was and never shall be what is commonly termed a popular man, being as little qualified by nature, education, or habit, for the arts of a courtier, as I am desirous of being courted by others. Such as I am I envy not the reputation of any other man in the Union. There is not another man in the Union, excepting the Presidents past and present, who receives or continues to receive from the people of this country indications of esteem and confidence more distinguished and flattering than I have. With the exception of one signal mark of dissatisfaction from the legislature of my native state thirteen years since, my life has been one continual succession for more than five and twenty years of high, of honorable and important trusts, and of literary and scientific distinctions—all conferred without any of those blandishments by which some others acquire esteem or favors. If ever man had reason to be grateful for the portion of public consideration which has been shown him, it is I, and I trust I am grateful for it. I am certainly not intentionally re-

pulsive in my manners and deportment, and in my public station I never made myself inaccessible to any human being. But I have no powers of fascination; none of the honey which the profligate proverb says is the true fly-catcher; and be assured, my dear friend, it would not be good policy for me to affect it. The attempt would make me ridiculous because it would be out of nature. . . .

The fatal duel between Fox and H. Randall [1] had well nigh been followed by another between Captain Randall and Lieutenant Kirk who lodged at Mrs. Coolidge's. But both the parties have been arrested, and *it is said* that an explanation and accommodation have taken place between them.

The theatre has been opened this week but is very thinly attended. Mr. Wood delivered an address in verse, said to have been written by Mr. Joseph Ingersoll. The company is a good one, but has no special attraction to fill the house. Booth is to *come*, but is now at Petersburg in Virginia. . . .

Your ever affectionate husband.

TO STRATFORD CANNING

Department of State,
Washington, 15 August, 1821.

Sir:

Your letter of the first of June last, together with its enclosures, has been submitted to the consideration of the President of the United States.

In the former correspondence between us in relation to the proposals of the British government to the United States inviting their accession to certain regulations which had been

[1] See Sabine, *Notes on Duels and Duelling*, 178.

agreed upon in treaties between Great Britain and some other powers, for a concert of operations having in view the suppression of the African slave trade, the reasons were at some length assigned which restrained the American government from assenting to those regulations. As the simple fact, that the American government declined acceding to the proposals of your government, can scarcely render justice to their determination, and as the motives for it appear to have been misunderstood, I am instructed now to expose them in more detail, in evidence of the earnestness and sincerity with which the United States have pursued, and still pursue, the common and important object, the suppression of the trade.

Long and earnestly as the government of the United States have been engaged in contributing their exertions to that result, they have necessarily considered the range of their means for its accomplishment as limited by two principles: first, the boundaries of their own authority delegated to them in the constitution of the United States; and secondly, the respect due by them to the independence of other nations.

The means of co-operation for the suppression of the trade, urged upon the acceptance of the United States by the proposals of Great Britain, and exemplified by her treaties with Spain, Portugal, and the Netherlands, were that the citizens of the United States engaged in commerce upon the high seas should be liable under certain circumstances, in time of peace, to have their vessels searched, and with their persons seized, and carried away by the naval officers of a foreign power, subjected to the decision of a tribunal in a foreign land, without benefit of the intervention of a jury of accusation, or of a jury of trial, by a court of judges and umpires, half of whom would be foreigners, and all irresponsible to the supreme authorities of the United States. To such modes

of trial and by such forms of process were the citizens of this Union to be subjected under charges for offences against the laws of their country.

The United States had very recently issued from a war with Great Britain, principally waged in resistance to a practice of searching neutral merchant vessels for men, in time of war, exercised by Great Britain, as the United States deems, in violation of the laws of nations. A proposal involving the exercise in time of peace of this same practice of search, though for different purposes, could not be acceded to by the American government consistently with their principles. Inadmissible as under any circumstances whatever they must have deemed this right of search to be, it was in one of the treaties to the stipulations of which their accession was invited presented under an aspect of peculiar import; authorizing its exercise in the case even of vessels under the convoy of a ship of war of their own nation. Under the operation of this provision the commander of an American convoy was not only to witness the search, seizure, and carrying away by a foreign naval officer, for offences against the laws of this country, of its own vessels under his immediate protection, but was to give every facility to the act.

There appeared to the American government to be no conceivable combination of circumstances which could render the provisions of this stipulation necessary or proper, for the proposed co-operation to suppress the slave-trade, since a vessel under *convoy* of its own nation must always be amenable to the examination, search, and seizure of its commander, thereby rendering the intrusion of a foreign officer for the same purpose as unnecessary and useless for the end proposed as it is otherwise objectionable in itself.

If both these expedients had an aspect little reconcilable

to the independence of nations, other measures appertaining to the system exhibited features equally inauspicious to individual rights. Among the securities in the political institutions of the Union deemed the most important and precious to individual liberty are the rules established to shield from oppression the rights of persons accused of crimes. The constitution of the United States among other humane and beneficent provisions in their favor had ordained that they should be called to answer no other accusation than that of a grand jury, that they should be sentenced only upon a verdict of a jury of trial, and that they should be tried only by judges, themselves responsible to the justice of their country by the process of impeachment.

To agree to treaty stipulations in violation of these principles was not within the competent authority, or not within the just discretion, of the American government. They could neither sacrifice the individual rights of their citizens, by subjecting them to trial for offences against their municipal statutes, before foreign judges in countries beyond the seas, nor the rights of national independence by authorizing foreign naval officers to search and seize any American vessel, and still less a *convoyed* vessel, in the very presence of the American commander of the convoy. The *reasons* for declining these engagements were assigned to the British government in terms as explicit as was thought compatible with the spirit of conciliation which it was desirable to preserve throughout the discussion, and have remained without reply.

To the opinion strongly expressed in your letter the inefficiency of the measures proposed on the part of the United States as a substitute for those deemed by your government to be alone adapted to the attainment of the end, namely, the concession of the mutual right of search, it might be replied that neither the experience of the respective measures

as they have been found to operate in practice, nor the examination of them as they may be expected to operate in their nature, will warrant the conclusion that has been drawn. Of the right of mutual search it is clear that its efficiency depends altogether upon its *universal* adoption. So long as it shall be declined by any one maritime state, however inconsiderable, its adoption by all others would leave it altogether ineffectual. Without adverting to the strong repugnance which has been manifested to it by other maritime states of the first rank, it is scarcely to be expected that any principle so liable to misapplication and abuse can obtain as an innovation upon the laws of nations the universal concurrence of all maritime powers. The expedient proposed on the part of the United States, of keeping cruizers of their own constantly upon the coast where the traffic is carried on, with instructions to co-operate by good-offices and by the mutual communication of information, with the cruizers of other powers, stationed and instructed to the attainment of the same end, appears in its own nature as well as to experience, so far as it has abided that test, better adapted to the suppression of the traffic than that of the British government, which makes the officers of one nation the executors of the laws of another. Abundant evidence has been exhibited to your government, and has been made manifest to the world, that it is not the *American* flag under which at this time this flagitious trade is driven. The cruizers of the United States have at least produced the effect of depriving the dealers in the trade of the use of their flag. The most unqualified assent of the United States to the practice of mutual search could do no more.

It is finally to be observed that the purpose of both governments being the same, a purpose important in itself, and dear to the interests of humanity, could scarcely be sub-

served by a controversial and acrimonious discussion, or an uncharitable estimation, on either part of the means adopted by the other for the attainment of the common end. It is believed that end will be best and most effectually promoted, if each party, applying with earnestness and sincerity the means of its own choice, and reconcilable to the genius of its own institutions, shall permit the other to pursue its own course, without molestation and without reproach.

I pray you, etc.[1]

TO THE PRESIDENT

[James Monroe]

Washington, 16 August, 1821.

Dear Sir:

At the last meeting of the members of the administration at your house, at which Mr. Clay's claim of a supplementary half outfit was under your consideration, a statement of facts relating to the allowances which have heretofore been made to the ministers of the United States in foreign countries was desired by Mr. Wirt, as a basis upon which he might definitely make up his opinion upon the case. You requested me to draw up such a statement from the documents in the Department, to which I assented.

[1] Five days later instructions were issued to commanders of the public vessels of the United States, charged with the duty of cruising on the coast of Africa, for carrying into effect the laws of the United States against the slave-trade. In transmitting Adams' note to Londonderry, Stratford Canning wrote, September 4: "I have reason, however, to think that all the members of the American cabinet are by no means equally adverse to a limited right of search. The constitutional impediments are those upon which they seem the most unanimous, and if it were possible still to entertain a hope of engaging them to a more decided co-operation, it could only be by means of waiving the mixed commissions, and proposing some simpler mode of adjudication for captured vessels."

On a review of those documents I am convinced that any statement of facts which I *could* draw up founded upon them, must be susceptible of an imputation of receiving a coloring from the person by whom it should be made. Under the particular circumstances of the case I must therefore request of you the favor of being discharged from all future consideration of it whatever, and that no opinion which I have given relating to it may have any weight, or be taken to account in the final determination.

In making this request I do not refer to the fact that Mr. Clay's application was made not through the Department, but directly to yourself. Mr. Clay has very candidly explained to me that this circumstance did not proceed from intentional neglect or personal distrust on his part, but because he found it necessary to advert to circumstances within your memory. But the responsible opinion upon the claim having been, from motives of the delicacy and propriety of which as regards myself I am entirely sensible, referred to the Attorney General, I hope you will think it compatible with the justice due to all parties to release me from all agency in the consideration of the claim whatever. I do not mean that I wish you to hold me irresponsible for the opinions upon the claim which I have heretofore given, but that, as far as they were my opinion, they may be set aside, and that the whole examination of and decision upon it may be had without reference to any views of mine relating to it past or future.

I am, etc.

TO DANIEL BRENT

Boston, 19 September, 1821.

Dear Sir:

. . . . . .

I have seen Lieutenant Stockton [1] and fully conversed with him concerning the captures of which the French minister complains.[2] He has promised me a particular report upon them in writing. I am confirmed in the opinion that the *Jeune Eugênie* should be left to the regular course of the law without interference of the Executive. I told Lieutenant Stockton that I had advised a Court of Inquiry, and of the objection to that course by the Secretary of the Navy. My motive was not censure or even the semblance of it from him, but with a view by the report of the court to have a satisfactory answer to give to the complaint of the French minister. The courts upon Commodore Rodgers in the affair of the *Little Belt*, and upon Captain Warrington for captures made after the peace, occurred to me as precedents.

This affair and the communications from Florida have determined me to shorten my visit here and to hasten my return. You may expect me between the 5th and 10th of next month. Have the goodness to inform the French minister that there are no French seamen on board of the *Alligator*, and that none ever enlisted there from the captured vessels. Assure him also that I delay answering his several letters on this subject, only for the purpose of obtaining further

[1] Robert Field Stockton (1795–1866).

[2] Of the *Jeune Eugênie*, for being concerned in the slave-trade. The effect produced on the French government is described in Adams, *Writings of Gallatin*, II. 213.

information with the hope of rendering the answer satisfactory. . . .

TO DANIEL BRENT

Boston, 22 September, 1821.

Dear Sir:

I have received your letter No. 13 with its enclosures. From the views of the President signified in his letter to you of the 15th instant,[1] I am satisfied of the expediency of delivering over the *Jeune Eugénie* to the French Consul. But I wish it should be submitted to the consideration of the President how this can be done without a strong though tacit censure of Lieutenant Stockton. By giving up the vessel we not only admit the fact that she was entirely French property, but we deprive our officer of the means of showing judicially his reasons for believing her to have been American. We surrender not only the question of further right but the justification of the individual. It seems to me also necessary that some very precise instruction should be given to all our officers who may be employed on that service hereafter, that they may know whether they can safely under any circumstances whatever board a vessel under a foreign flag. . . .[2]

[1] An error, as Brent's letter was dated the 15th, and Monroe was at Oakhill, Virginia.

[2] Adams, *Memoirs*, November 2, 3, 6, 7, 8, 1821.

TO DON FRANCISCO DIONISIO VIVÉS

DEPARTMENT OF STATE,
WASHINGTON, 25 September, 1821.

SIR:

Your letter of the 23d of last month has been submitted to the consideration of the President of the United States. The question upon the construction of the second and seventh articles of the treaty of 22 February, 1819, will, as you propose, be referred to the fair and just consideration of your government.

That question is upon both the articles not only at first view the same, but no reason is perceived which could justify a difference of principle in its application. If it be admitted that the Spanish negotiator *intended* that the supply of *provisions* should be included in the stipulation for transportation, it is certain that this intention was not expressed, and you are well aware that whatever the *intention* of one party to a treaty may be, unless expressed, it can be binding upon the other only so far as upon a liberal principle of construction it is to be *implied*.

If it was natural that the Spanish negotiator should *intend* under a stipulation for *conveyance*, to include a supply of *provisions*, it was assuredly not less natural that the American government should *intend*, under an acquisition of *fortifications*, to include those defences without which they could not deserve the name; and the presumption is in the present case strongly corroborated by the fact that in the treaty no provision is made manifesting any intention on the part of the Spanish government for carrying away the artillery. Your observation, that the artillery to be left is of more value than the rations to be supplied, is of no

effect upon the principle. The application of the principle upon one article is in favor of Spain, upon the other in favor of the United States. The amount of value depending to the one or to the other upon the result can have no bearing upon the principle itself.

No imputation upon your candor was intended by the remarks in my letter of the 13th of August last, to which you have replied. No charge of using double meanings was made or insinuated against you. Although no express stipulation for a supply of *provisions* existed in the treaty, you requested that they might be furnished by the American government. You thought, and you still think, that the United States ought to furnish them. The American government assented to the construction of the article which you desired, in the full confidence that Spain would not hesitate to recognize the same principle in one article to the advantage of the United States, which she claimed in another for her own benefit. In this confidence it was deemed useless to anticipate by speaking to you of a question which it was expected would never be made; and which, if made, it was presumed you would have neither instructions nor authority to adjust, as by your communication now appears to be the fact. But as it was foreseen that possibly the question might be made, the instructions to General Jackson were given, a copy of which was communicated to you with my letter of the 13th of last month. The government of the United States wish for no undue advantage in the construction of the treaty; but they rely on the justice of yours to exercise the same liberality which it claims, and to acquiesce in the interpretation of one article by the same principle, upon which, in its behalf, you insist, as governing the fair construction of another.

With regard to the conduct of the governor and captain-

general of the island of Cuba, relating to the execution of the treaty, the suitable representations will be made directly to your government, through the minister of the United States at Madrid.

I pray you, etc.

TO ROBERT WALSH, JR.

WASHINGTON, 26th October, 1821.

MY DEAR SIR:

All that I am *now* at liberty to say to you concerning the recent events in Florida is, that I have seen no cause to alter my opinion and that the subject is in discussion here.[1] You have taken in your paper what appears to be the correct course, viewing the conduct of General Jackson in the spirit of candor and not of electioneering hostility, and with regard to any particular acts of questionable character, waiting to ascertain facts before passing sentence of condemnation. If time and circumstances permit, I will write you more fully hereafter, when the snarl shall be more unravelled than it is yet.

You observe that the oration storm has lulled, but I perceive that "Plain Truth" and the "Friend to calm and temperate discussion" has had his dash at it. This gentleman, whom I think you have decisively shown to be identically the same without asserting it, must be edified at the public exposure you have made of his pretensions and motives. The bank and its able and honorable President[2] will suffer little from anything henceforth said under either of these two marks, and your article Tuesday last, in reply

[1] Adams, *Memoirs*, October 23, 24, 25, 1821.

[2] Langdon Cheves.

to the Philadelphia *Gazette*, appeals to principles so sure and so just with regard to the personalities of the press, that I hope it will not be without its effect, not only upon other editors but upon the public mind.[1]

I inclose in confidence a letter I have lately received from Stockholm, the perusal of which will I hope afford you half an hour's amusement. I will thank you to return it, as Hughes is one of my most pleasant correspondents, and I set more than a diplomatic value upon his letters.

I remain, etc.

TO JOAQUIN DE ANDUAGA [2]

Department of State,
Washington, 2 November, 1821.

Sir:

Previous to your arrival in this country, I had the honor of receiving from Don Hilario de Rivas y Salmon, then chargé d'affaires from your government, a letter, dated the 6th of the last month, with sundry papers enclosed, exhibiting complaints against the governor of the territories of Florida, for certain proceedings in his judicial character against Col. Don José Callava.[3] That letter was immediately submitted to the consideration of the President of the United States;

[1] "My quarrels with the editors of newspapers are pursued by me, in nearly all instances, for the purpose of inculcating some broad principles of propriety and justice, in the observance of which there is a lamentable remissness in the management of the daily press. Real independence and rectitude of sentiment seem to be thought impossible." *Walsh to John Quincy Adams*, October 30, 1821. Ms.

[2] Minister from Spain. See Adams, *Memoirs*, October 29, 1821. Printed in *American State Papers*, Foreign Relations, IV. 787.

[3] See Bassett, *Life of Andrew Jackson*, ch. XVI.

by whose directions, I have now the honor of addressing you in answer thereto.

The complaints in substance are,

1. That Col. Callava being a commissioner of his Catholic Majesty for delivering the province over to the United States, and entitled to the special protection of the laws of nations, his house was entered forcibly in the night time, and he himself, being then sick in bed, was under special circumstances of rigor and inhumanity, summoned and compelled to go before Governor Jackson to answer interrogations.

2. That the questions put to him, and his answers to them, were both falsely interpreted, he being ignorant of the language in which the interrogations were put.

3. That he was finally committed to prison and there detained for the space of a day before he was released.

4. That during the period of his detention his house, his property, and the papers of his government were left at the mercy of the soldiery; that he found on his return to his house the seals of his government upon certain boxes of papers broken, and some of the papers scattered about.

I am instructed by the President of the United States to assure you of his deep regret that in the completion of a transaction of such high importance to both nations, any circumstances to excite pain on either side should have occurred.

On the merits of the proceeding complained of, all the light necessary to the formation of a correct judgment has not been received. It would be improper, therefore, in the present state to pronounce definitively on the subject. In its intercourse with foreign powers the government of the United States is scrupulously observant of the rights of the representative character of persons charged by their governments with the performance of any duty incident to their

relations with this Union. Although Col. Callava was not clothed with the character or credentials of a public minister, it is readily admitted that in the execution of his trust as a commissary for the delivery of the province, he was entitled to all the protection and all the immunities necessary for the discharge of that duty. But it is not less true, that in the treaty itself it had been stipulated that the whole transaction of the surrender of the provinces, and the evacuation of all the officers of his Catholic Majesty within it, should be completed within six months from the exchange of the ratifications of the treaty, which six months had elapsed at the time when these incidents occurred. It is also true that the surrender had been completed; that the authority of Spain within the Provinces had more than a month before ceased, and that of the United States had taken its place. The troops of his Catholic Majesty had been removed, and if Col. Callava and other officers of Spain remained there after the consummation of that event, they could no longer claim the immunity of public agency, or any other privileges than those of strangers permitted to reside in the place—strangers, not only amenable to the common judicial tribunals, but who, conformably to the Spanish laws existing before the cession of the province, would have been liable to removal from it, or to imprisonment at the discretion of the governor for the mere act of being there.

It is asserted by Col. Callava that the postponement of his departure from Pensacola had been necessary, because it was impossible for him to terminate the business incident to the surrender on that day; because he was sick; and because the question whether the artillery belonging to the fortifications was or was not included in the cession, had been referred to the decision of the two governments. To this the reply is obvious, that without now referring to the

delays which protracted till the 17th of July the surrender which might have been effected more than two months before, there was yet ample time between that day and the 22d of August for the discharge of any business incidental to it; that the personal indisposition of Col. Callava neither disqualified him on the 17th of July from the transaction of business, nor on the 22d of August from being present at a festive entertainment, nor immediately afterwards from undertaking and performing a long and fatiguing journey, from Pensacola to New York, and thence to embark upon a voyage by sea. And that, with regard to the question concerning the cannon, which was reserved for the decision of the two governments, it furnished no sufficient motive for the continuance of Col. Callava there; a particular receipt for them having been given by Governor Jackson, and the right of Spain to remove them, whatever its merits might be, being in no manner affected by the departure of the Spanish commissioner.

It appears, therefore, that both by the limitation of time stipulated in the treaty for the surrender of the province, and by the nature of the functions assigned to Col. Callava, his immunities of exemption from the ordinary process of the law had ceased before the 22d of August. The allegation that Governor Jackson had nineteen days before that time recognized his commissarial character as yet existing, will not affect the principles here advanced: first, because the limited six months had not then expired, and secondly, because the only transaction of General Jackson on that day recognizing Col. Callava as a commissioner, was by writing him a letter complaining of a signal breach of faith by that officer, in evading, *on the plea of indisposition*, the performance of a stipulated promise, on the morning of the 17th of July, before the surrender, and afterwards refusing

to perform it at all. Which letter, after an expostulation against that proceeding suited to the aggravation of its character, finished by a declaration of General Jackson that it closed the correspondence between him and Col. Callava on the subject forever.

Far would it be from the intention of the American government to draw within its rigorous limits the exemption from ordinary legal process of a foreign public officer. It would extend to them a liberal measure of time, and a full portion of indulgence for the execution of the trust, and for departure after its completion. But it cannot perceive the justice of extending these privileges beyond their limits as sanctioned by custom, for purposes of injustice and wrong. And here we are led to the inquiry what was the immediate occasion of the summons to Col. Callava, his resistance against which prompted the subsequent rigorous measures in reference to his person, house, and papers, complained of in the note of Mr. Salmon? He had withheld, and caused to be packed in boxes for transportation, public records relating to the property of the province, judicial documents, indispensable for vindicating the titles to succession of infant and orphan children. Application was made to General Jackson in behalf of those orphans, for the legal judicial process to obtain these papers. He had proof that they had been removed, after a summons from him to the person in whose possession they had been to produce them, to the house and possession of Col. Callava, for the avowed purpose of subtracting them from the process issued by his authority. Had that officer's personal immunity been complete and unquestionable, what greater abuse of it could have been made than thus to wrest from the course of justice the vouchers on which depended the rights and the subsistence of orphans? General Jackson, considering that Col. Callava

was not entitled to such exemption from legal process, issued the ordinary summons, which would have been applicable to any other individual, and on his refusal to answer the interrogations put to him, committed him, as others in like cases would have been committed, to prison. By the same order he issued a commission for securing the papers which ought to have been delivered up before, with all suitable caution to prevent the taking of any others; and immediately after the satisfactory return of that commission, ordered the release of Col. Callava. Such appears to have been the character of the transaction upon the report of it made by General Jackson; and although the President cannot but contemplate with unfeigned regret this occurrence, he thinks that blame should be imputed to the party deserving it, and whose misconduct produced it; and that it is a justice due to General Jackson to make him acquainted with the objections in the note of Mr. Salmon to his conduct, and to receive his full explanation of the motives and considerations which governed him.

In concluding this letter I cannot forbear reminding you, Sir, that not only this, but all the other transactions of a painful nature, which have arisen in the execution of that treaty, which it was hoped would have terminated all the differences, and have led to the most harmonious intercourse between the United States and Spain, have proceeded from the unjustifiable delays and evasions of the officers of his Catholic Majesty, in direct contravention, as it is understood, of his orders and intentions, in withholding the documents, archives, and vouchers, of which the delivery had been expressly stipulated—vouchers, indispensable both for the dispensation of private justice, and for the establishment of public right, *to the United States*, but utterly useless to Spain, and the detention of which by the Captain General

and Governor of Cuba, and by the Spanish governors of both East and West Florida, however intended, and by whatever motive induced, can subserve no purposes but those of fraud, injustice, and oppression. After a succession of delays, for a period of six weeks, at the Havana, in a climate noted for its unhealthiness to strangers, of the commissioner of the United States, authorized to receive those documents, and of the vessel which had conveyed him, he was compelled to depart without them, nor have they yet been delivered. The attempts to carry away, both from Pensacola and from St. Augustine, many of those papers, can be viewed in no other light than as flagrant violations of the treaty. The President relies that they will be so considered by his Catholic Majesty; and that he has ere this given the most positive and effectual orders for the faithful execution in this respect of that instrument.

I pray you, etc.[1]

TO JOHN THORNTON KIRKLAND

WASHINGTON, 12th December, 1821.

SIR:

I have had the honor of receiving your printed circular letter of the 1st instant, with the annexed memorial to Congress, praying for the repeal of the duties upon imported books. I hereby authorize you so far as I am, or may be authorized myself, to affix my name as President of the

[1] "By yesterday's mail from the East I received a letter from Mr. Adams, Secretary of State, accompanied with Callava's protest, Mr. Salmon's (Chargé d'Affaires of Spain) letter to Mr. Adams, and Mr. Adams' letter to the Minister of Spain in reply to Mr. Salmon. . . . Mr. Adams' letter is just like himself, a bold, manly and dignified reputation of falsehood, and justification of justice and moral rule." *Jackson to Henry M. Brackenridge*, November 22, 1821.

American Academy of Arts and Sciences to the copy of the memorial which may be sent to Congress. To this end it may be necessary to call a meeting of the Academy, or of the Counsellors, expressly to authorize the signature of the President. I ask of you the favor of taking the steps necessary for calling such a meeting and obtaining this authority. A memorial to the same effect having already been laid before Congress by the rector and visitors of the University of Virginia, the sooner your memorial can be transmitted the better. Whatever aid it may be in my power to lend to the attainment of the end will be cheerfully yielded.

I am, etc.

TO HYDE DE NEUVILLE

Mr. Adams prays his Excellency the Baron Hyde de Neuville to accept his sincere and deep felt acknowledgments, as well for the obliging communication of the letter from the Chevalier Delambre, perpetual Secretary to the Royal Academy of Sciences of France, as for the suggestion which from that letter Mr. Adams perceives had been made by the Baron Hyde de Neuville, of a desire that Mr. Adams might be honored by the Academy with the title of Correspondent to that illustrious body, a distinction which Mr. Adams holds in too high estimation, and considers as imposing upon any one favored with it duties of too elevated a cast, to permit him to have formed, still less to have expressed the desire, of obtaining it. The Report upon Weights and Measures, made at the last session of Congress, related to a subject in which the French Academy of Sciences and the Chevalier Delambre personally had already taken so deep an interest and rendered services so important to mankind

that in presenting a copy of the work to the Academy, Mr. Adams discharged what he felt as a debt of justice as well as of gratitude. The kindness with which the Academy has been pleased to receive it, and the favorable notice taken of it by the author of the *Base du Systeme Métrique* are among the most precious memorials which the Reporter could have received from the judgment of his contemporaries, and of which the recollection will not cease to yield him encouragement and satisfaction.

WASHINGTON, 15th December, 1821.

TO JOHN D. HEATH [1]

Private.

WASHINGTON, 7th January, 1822.

DEAR SIR:

I have had the pleasure of receiving your favor of the 28th of last month, and pray you to be assured that I am not insensible to the kind and friendly sentiments towards me of which it contains the proof. I have also read with much satisfaction the speech which you had the goodness to forward with it.

If ever there was a citizen of *a Republic* who had reason to complain of the *ingratitude* of his country, I am not that man. My life for nearly forty years has been a continual succession of favors unsolicited, unsought, and in many instances unwished, showered on me by my country through her various regular, constitutional organs. In return for these favors I have lived for my country and for her alone, and by my country I mean the whole North American

[1] Of Charleston, South Carolina, a member of the State legislature and until this time editor of the Charleston *City Gazette*.

Union. Every faculty of my soul and every desire of my heart has been devoted to her interest and to the promotion of her welfare. In all which I never have considered, as I never shall consider, myself as laying the foundation of a claim to her gratitude but as discharging to the best of my ability my own debt of gratitude to her. In the fulfilment of the several important duties which she has at diverse times committed to my trust, it has been my fortune not only, as it must be that of every public man, to come in conflict with rivals and competitors, with eager adversaries on points of public principle, and with ardent and powerful parties; but, what has been infinitely more painful to my feelings, with warm personal friends, with local and sectional partialities of which it is difficult for any of us entirely to divest ourselves, and even with that communion of party spirit which is too often mistaken for patriotism.

At a very early period of my life, upon comparing the objects which I deemed worthy of the ambition of an American citizen with the means which nature and education upon an estimate as impartial as I was able to make of my own faculties had placed in my power, I formed the determination never to solicit, or by any act of mine direct or indirect to endeavor to obtain, any office of honor, profit, or trust, in the gift of my countrymen; but to stand ready to repair to any station which they through their constitutional authorities might think proper to assign to me. My motives for this assertion and determination were founded partly upon a general principle, and partly upon considerations peculiar to myself. I shall not trouble you with a detail of them, but will merely remark that I have adhered to it without exception to this day. The twenty-eighth year is now near its close since President Washington at a time, and in a manner utterly unexpected by me, appointed me to a public

mission abroad. Since that time, with two intervals each of about a year, I have been constantly in the public service, either of my native state or of the Union, and on the accession of Mr. Monroe to the Presidency he recalled me from a mission in Europe to place me in the station which I now occupy. By the practical operation of our government, and the experience of the two most recent successive Presidential elections, it was probable that if the duties of the Department should be performed to the satisfaction of the country, the person holding this office would be one of those towards whom the public attention would be turned as a suitable candidate to succeed the President upon his retirement from office. This was an incident arising from my position as much unsought by me as the position itself. I had indulged the hope that the agitations which must be expected to attend the canvassing for a successor to the President would have been postponed at least until the last year preceding the election, and until Mr. Monroe should have signified his own intention to retire. I regret exceedingly that a different course should have been pursued, and that both in the state legislature and in the Congress of 1821 great and systematic exertions should have been concerted to forestall the public opinion of the country for the Presidential election of 1825. It could not be unobserved that *all* these exertions hitherto have been directed to the positive purpose of excluding me from the field of competition, when its proper time shall arrive. That in connection with them many of the public presses throughout the Union should have teemed with slander, false and foul, upon my character was of course to be expected, and has been and continues to be realized. So far have I been from contributing to this premature fermentation by any act on my part, that it is but very recently indeed that I have had more than the

general reason resulting from my position to believe that the people of any portion of the Union would probably look to me as a candidate for the succession to the Executive chair. That such a disposition may, since what has happened, be manifested at no distant day is now probable. It will proceed from the Republicans of my native section of the Union, but to what extent, and with what degree of unanimity I am not informed. I have hitherto discouraged and, as far as I have been able, restrained the exhibition of any such movement, and shall now barely leave it to take its course. The time of election is yet so far distant, and the events which must finally decide it are so contingent, that it may be for time only to disclose who shall be the real candidate of that day. From facts within my knowledge I incline to the belief that the legislative caucus in South Carolina was a *feint*, marking other purposes than those of advancing Mr. Lowndes,[1] although one of them was undoubtedly that which you mention, of setting aside any purpose of which the danger might be apprehended that my name might be hereafter held up for the favorable consideration of the citizens of South Carolina. Efforts of the same kind, though connected with other names, have been and are making probably in every state in the Union, certainly in my own native state and its immediate vicinity. With the rule which I have adopted as the first principle of my relations with public concerns, that these efforts should succeed is to be foreseen as highly probable, and if your kind opinion in my favor were less pure, disinterested and patriotic than it is, I should advise you to devote your talents and your friendly offices to some candidate more able and willing to toil for the advancement of his own pretensions than I am or can be. For if the old prudential maxim that God helps those

[1] Adams, *Memoirs*, December 31, 1821.

who help themselves is morally applicable to the pursuit of public honors and trust, I shall certainly be the most helpless candidate that ever was presented to the view of the American people. Whatever the event may prove, it will not be without precious consolation to me while testimonials like those contained in your letter shall be left me. While citizens of distinguished merit and respectable standing, viewing public men and their conduct only through the pure atmosphere of public spirit, personally strangers to me, and guided by public motives alone, shall estimate my services to the country by honesty of intention and faithfulness of diligence, the suffrage of five such men, unbiassed as it must and ineffective as it may be, will be dearer to me than that of a whole Sodom of political chapmen, who would barter a Presidency for a department or an embassy, or stoop to spread the table of greatness for the promise of the crumbs which may fall from it.

You perceive how frankly I have returned your confidence with mine. I believe the movement in the South Carolina legislature was unknown and could not have been countenanced by Mr. Lowndes, for whom I entertain the highest esteem. For the friendly sentiments and dispositions towards me expressed in your letter I pray you to accept my warm and unfeigned thanks. You will learn from other sources the motions of parties here, and from public indications the prevailing sentiments of the North. In what manner, should your dispositions continue, you may think proper to give them efficacy will be determined by your own judgment.

I am, etc.

TO HENRY ALEXANDER SCAMMELL DEARBORN

WASHINGTON, 8th January, 1822.

DEAR SIR:

I have had the pleasure of receiving your letter of the 2nd instant.[1] You will see by the *National Intelligencer* of yesterday that the matter is in a fair way to be settled here immediately, without waiting for the voice of the people. An attempt is making to accomplish a Congressional caucus nomination *at this time* for an election yet three years distant. You will readily excuse me from any comment on the subject.

I am, etc.

[1] "You will observe in the *Patriot* of this day that the skirmishing has commenced, and will be *continued* and *extended*. The Salem papers and one in Portland and New Hampshire will fire, as soon as they have seen the flash here. I think you can depend on all New England. The federalists, except perhaps the junto, will be for you, as well as all the republicans, save perhaps a few. We think it highly important that the papers in all the states on our side should come out at once, and a firm and forward movement made throughout the Union, and particularly at Washington. Every day is in favor of the adverse party that is now neglected. I write this by the request of your friends here, that our course may be understood and seconded at Washington, and measures taken to cause a similar demonstration at all the chief cities. We must not now *retire*, or *halt*, but go *bravely on*. You will therefore consider the piece in the *Patriot* as the signal in the north and must be repeated." *Dearborn to John Quincy Adams*, January 2, 1822. Ms.

"I never did like John Q. Adams. He must have a very objectionable rival whose election I should not prefer. I think it would be difficult for any candidate to divide the vote in New England with him. Although he may not be very popular, yet it seems to be in some degree a matter of necessity to support him, if any man is to be taken from the land of the *Pilgrims*. I should really prefer Calhoun, Lowndes, Crawford, Clinton and fifty others that I could mention; but this is high matter and it is very uncertain what political feeling may prevail three years hence. I am sorry that there was not a better account from Albany. The course you mention is the only one that our condition leaves, *and that will not be taken*. At least I fear it." *Ezekiel Webster to Daniel Webster*, January 28, 1822. (Van Tyne, 89.)

TO EDWARD EVERETT

WASHINGTON, 31st January, 1822.

DEAR SIR:

I have received your letter of the 20th instant and its enclosure and thank you for both. Your brother's letter [1] gave me great pleasure as a token of the warmth of his friendship for me. I believe with you that the motives of the severity with which my address was criticised at Boston lay much nearer the surface than your brother supposes. The motive avowed by the pamphleteer reviewer was a very laudable one—to guard the public taste against the contagion of a bad example. I have no right to believe that this motive was not sincere. And when once the reviewer had made up his mind that the example was bad, it would be too rigorous a rule to hold him to the standard of impartiality, and call upon his acuteness to discover merits where his only purpose was to expose defects.

Fourth of July orations and addresses have seldom been made the subject of elaborate criticism, nor have I reason to believe that my address on the last fourth of July would have shared a different fate, but for the public station accidentally occupied by its author. On another anniversary of the same day twenty-eight years before, I had delivered an oration upon the same subject in Boston. They were both emanations of the same mind and doubtless bear the same characteristic marks of composition. They were both equally well received by their respective auditories, but of the first no watchful guardian of our literary chastity felt himself summoned in the discharge of patriotic duty

[1] *Alexander H. Everett to Joseph Hall*, October 3, 1821, on Adams' *Oration* on July 4.

to detect and expose the deadly danger to the public taste.

That the modern eunuchs of Apollo's harems are more faithful in their vigilance over the purity of the muses under their charge than their predecessors (I had like to have said their forefathers,) twenty-eight years ago, is not impossible; but I rather presume that they measured the malignity of the temptation by the standing of the tempter, and concluded that although the wanton excitement of a county court attorney of twenty-six might be disregarded, it was high time to sound the alarm when the solicitor to sin was a Secretary of State of fifty-four. However this may be, it is well that the morals of these ladies are now under such keen scented custody, as their spotless virtue is of high import to the public weal and it is very desirable that they should be preserved "chaste as an icicle."

You will not understand me as pleading guilty to the charge of attempting to corrupt the public taste. Still less as admitting the justice of any part of the reviewer's censure upon the sentiments of the address. I have cultivated *style* as much, perhaps, as any man in the country whose life has been necessarily so much a life of business as mine. Style and ethics, or rather to arrange them according to my own sense of their relative importance, ethics and style, have been the two branches of human knowledge to which I have most assiduously devoted the leisure of my life, and my reason for studying them in preference to other portions of general science has been, because I have thought them more constantly and more usefully applicable to *all* the business of life than any others. With regard to style I have considered that the first object of a writer for the public was to obtain as many readers as he could, and that something *remarkable* in the style of composition was among the

most attractive lures to readers. Sir Joshua Reynolds who was a philosophical painter was in the practice of making frequent experiments in the mixing of his colors for the purpose of trying their effect. It sometimes happened that his experiment failed and he lived to see many of his portraits almost vanish from the canvas on which he had painted them. I have treated style much in the same way as Sir Joshua treated his colors and in some cases with similar success. In popular discourses especially I have written more for *effect* than was perhaps always wise, and in mixing up colors which I knew would at all events be evanescent I have given them a momentary glow beyond the warmth of nature.

In the *address* of the last summer I indulged myself in this experimental mood more than I had ever done before. It was a hasty composition prepared in the midst of a multitude of other avocations, and I had no time for the labor of the file. Its effect upon the crowded auditory who heard me was as great and as favorable as I could have desired—the effect of unremitting rivetted attention, with more than one occasional burst of applause. When it came before the public from the press the effect was different. Criticism fastened at once upon the writer and upon the work. Opinions became various. The address was *read* by friend and foe, and it was judged more by the spirit of feeling than by that of scrutiny, more by what was thought of the author than by what was found in the discourse. The consequence was that neither friend nor foe, so far as I have observed, discovered what was really in the address and what I had thought the most noticeable thing in it. To instance what your brother calls the doctrine of *sympathy*, upon which he remarks that what the reviewer says is pitiful, but adds no comment of his own; this doctrine of sympathy in the ad-

dress is merely incidental to the demonstration from the moral and physical nature of man that *colonial establishments cannot fulfil the great objects of government in the just purpose of civil society*. Is the demonstration complete and unanswerable? I think it is. Had it ever been exhibited before? Not to my knowledge. Let us assume it as a new but demonstrated axiom and examine its bearing upon the past, present and future history of mankind, upon the system of political morality, and upon the future improvement of the human character.

1. It places on a new and solid ground the *right* of our struggle for independence, considering the intolerable oppression which provoked our fathers to the revolt only as its proximate causes, themselves proof of the viciousness of the system from which they resulted.

2. It settles the justice of the present struggle of South America for independence, and prepares for an acknowledgment upon the principle of public law of that independence, whenever it shall be sufficiently established by the fact.

3. It looks forward prospectively to the downfall of the British Empire in India as an event which must necessarily ensue at no very distant period of time.

4. It anticipates a great question in the national policy of this Union which may be nearer at hand than most of our countrymen are aware of: Whether we too shall annex to our federative government a great system of colonial establishments.

5. It points to a principle proving that such establishments are incompatible with the essential character of our political institutions.

6. It leads to the conclusion that great colonial establishments are but mighty engines of *wrong*, and that in the progress of social improvement it will be the duty of the

human family to abolish them, as they are now endeavoring to abolish the slave-trade. Did I deceive myself in imagining that by asserting this principle and supporting it by a demonstration, logical in substance and highly, perhaps too highly, oratorical in form, I was offering to the minds of my countrymen matter for meditation other than the inquiry how many times the word *sympathy* was repeated in the compass of three pages? The eyes of the Boston reviewer see nothing in it, nothing novel, nothing original, nothing comprehensive, nothing dignified, nothing but shadowy metaphysics about sympathy.

> Nor to their idle orbs doth sight appear
> Of sun, or moon or star throughout the year.

Let me give one instance more. The Edinburgh reviewer of Mr. Walsh's book, foreseeing times of future turbulence in his own country, and panting for a revolution with English and Scottish Whigs at its head, descanted largely upon the importance of a good understanding between the Americans and that party, and upon the supposed duty of the United States to take an active part in the impending European conflicts between *Power* and *Right*. This doctrine has already twice in the course of our history brought the peace and the permanent welfare of the Union into jeopardy: under Washington's administration at the early stage of the French Revolution; under the present administration in the efforts to entangle us in the South American conflict. The address has presented a principle of *duty* directly the reverse as that which ought forever to govern the councils of the Union, and has assigned as a reason for it the inevitable tendency of a direct interference in foreign wars, even wars for freedom, to change the very foundations of our own government from *liberty* to *power*. Had this view of a ques-

tion in political morality transcendently important to the future destiny of this country ever been presented before? Certainly not to my knowledge. It may be controverted no doubt, but I believe the principle to be impregnably true, and it was assuredly no commonplace topic of orations upon Independence. The Boston reviewer is unconscious that it exists in the address at all. I will weary you no more with examples. From the high opinion which your brother expresses of my general style of writing, and from the avowal of his judgment that this address has its merits as well as its defects, I conclude that he discerned some of these things which had escaped the optics of the reviewer. I have given you the clue to the true cause of the defects and perhaps the merits of my style, and I will now point you to the source of all the matter of my composition good or bad.

The merits of whatever compositions I have given to the world, either as a literary man or a politician, consist in the application of moral philosophy to business, in the incessant reference direct or indirect of all narrative, argument, and inference, to the standard of *right* and *wrong*. Erroneous moral principle is the most fruitful of all the sources of human calamity and vice. The leaders of nations and parties are generally but accomplished sophists, trained to make the worse appear the better reason. The intercourse of private life is full of sophistical palterings and human law itself, with deference to Hooker be it said, law, itself national, civil and municipal, is too often but a system of formal sophistry substituted for eternal truth and justice. Yet so congenial are truth and justice to the human mind, that it is always vehemently moved by a skilful and forcible appeal to them, and of appeals to them direct or implied, explicit or deductive, the whole substance of my public writings is composed.

You have now the whole secret of the merits, such as they are, and of the defects of my compositions, literary and political. The sources both of their matter and style are before you. I need not add that I am infinitely more solicitous about the substance than about the form. If you have read my lectures on rhetoric you have seen in the 30th, 31st, and 32nd of them my theory of figurative language, and have perceived that it is more indulgent to the excesses of energy and less to the prudery of taste than Dr. Blair, the French critics, or even Quintillian and Horace. In the use of language, as in the conduct of life, I would certainly aim at the precise line between licentiousness and servitude; but so far as mere taste is concerned, if I must err, let it be on the side of liberty.

Your brother has allowed himself a little of this liberty in his description of the estimate which was once made of my talents at composition by those whom he calls your *Eastern politicians*. I think there *never* was a time when that class of our fellow citizens had much opinion of the merit, or were at all insensible to the defects of my style. On the very first occasion that I ever presented myself as a writer and speaker in the face of my country, which was by the delivery of an oration upon taking my first degree at Harvard University, an elaborate critical review of the performances of the day from the pen of one of these Eastern politicians was published in a Boston newspaper, pronouncing one of my classmates who had also delivered an oration on that day my *indisputable superior* in *style*, *elegance*, and oratory. I could prove to you by a long, but it would be a very tedious, historical detail that from that day to this my credit for talents at writing has been very low with those Eastern politicians, and that even while they numbered me in their political ranks, whatever favor they showed me was a tribute not to me

but to a public taste, vitiated as they believed, but stronger than themselves.

I have told you that I have been much in the habit of writing to the public for *effect*. In the year 1802 I delivered an address to the Massachusetts Charitable Fire Society. In that address there was a parallel between *Catanea* with a burning mountain at its gates, and *Boston* with a burning mountain within its walls. You were then a child. Did you ever hear that this address, and especially this parallel, contributed to the effect of casting away clapboards and shingles and of building only with incombustible materials? If you did not, ask our common friend to whom your brother's letter is directed whether he remembers it? He may perhaps not remember that it was proved by a newspaper critic of that day, quite to the satisfaction of your *Eastern politicians*, that there was in this parallel nothing new, nothing original, that it was merely *a quotation from Brydone's Travels*, and that the use of such words as clapboards and shingles in a public oration was much too vulgar for the relish of refined taste.

In the year 1808 I published a letter to Mr. H. G. Otis upon the embargo. It was defensive against a masked battery which had opened upon me by the *Eastern politicians* at a crisis and in a manner so adroitly chosen that it was thought it would demolish me to the foundation. About a hundred thousand copies of my letter were printed, and column was piled upon column in the newspapers, and pamphlet upon pamphlet issued from the press, to prove not only that I was a Judas in politics, but that there was not a sentence of common sense or tolerable English in my letter. This was the sound doctrine of the Eastern politicians, who accordingly dismissed me as insultingly as was in their power from the service of the Commonwealth as a Senator

of the United States. In truth the pamphlet review of my last summer's address and the strictures of Mr. Hale's paper [1] were so far from indicating inconsistency with the opinion always entertained of my talents and style by the Eastern politicians, that I have something more than surmise for the belief that they had the same identical origin as the review of my commenceent oration upon my taking the bachelor's degree in 1787. Shall I acknowledge to you that I regret nothing of all this? Shall I confess that this unrelenting and almost unrelaxing opposition of your Eastern politicians which I have now breasted these five and thirty years, and against which the cheering voice of my country has hitherto triumphantly supported me instead of casting me down, has been my highest pride? Weak and vain as the confession is I cannot deny it. Were it therefore true that Virginia has been a partial mother to her own sons and a stepmother to those of her sisters, right glad should I be that at least in my person no such dandling spirit should have been manifested by my good mother Massachusetts. The reputation which must be pampered and cosseted has no charms for me. Give me that which is spontaneously bestowed by strangers. Give me that which is reluctantly extorted from rivals. Give me that which the whole nation shall sanction and after ages shall ratify, or give me none.

It is not assuredly for me to complain of the partialities of Virginia. Of the last twenty-eight years of my life twenty have been employed in offices of trust and profit and honor in the service of the Union at the call of Virginian Presidents. I have never courted her favor. I have never ministered to her passions. I have never flattered her prejudices. Yet three of the four eminent citizens born of her who have presided over the Union have successively confided to me

[1] Nathan Hale (1784–1863), editor and proprietor of the *Boston Daily Advertiser*.

several of the highest trusts of the Nation. From the fourth I have received multiplied tokens of esteem, such as the Eastern politicians never thought me to deserve. Under this patronage I have rendered as in duty bound faithful services to the Union. Of their value or importance I am not to judge. Great or small, some of them are now beyond the power of time and out of the reach of fortune. Clouds and darkness rest upon the future; but whatever my fortune may be, whether my reputation as a statesman or a writer is to stand or fall will, I trust, depend as little upon the policy or the good will of the Eastern politicians, as upon the strictures of Mr. Hale's gazette or the pamphlet of the Boston reviewer.

There is much of egotism and so little of discretion in this letter that after having written it thus far, I have long hesitated whether it should be committed to the post office or to the flames. I have at length concluded to forward it to you in strict confidence, with permission to give its perusal only to the friend to whom your brother's letter was addressed. He has been to me for more than thirty years the true and disinterested friend of all hours and under every vicissitude. He knows as well as any living man all the good and all the evil of my character, and though as quick to discern and as judicious to distinguish a blemish or a beauty as the clearest sighted of Eastern politicians, if he should here and there espy some trivial crudity of diction or deportment, will yet not make it his business or his pleasure to blazon it forth to the world.

I regret that it will not be in my power to review the memoir of Mr. Onis. It is indeed of very little consequence in itself and scarcely deserves the notice of your miscellany, unless it were as an occasion for reviewing the political relations of this Union with Spain from their commencement

amid the storm of our Revolution until this time. Such a review would make a curious and interesting article for your work, but I could not write it as it ought to be written without walking upon firebrands. "Suppositos cineri doloso."

I send you however as a substitute for my half promised communication, two-thirds of a review of Don Luis's *Memoir* published at Philadelphia, and in which that most excellent Lord is handled more roughly than I should permit myself to treat him, though not more severely than he deserves.

I will thank you to acknowledge the receipt of this letter, and remain with very high regard and esteem, etc.[1]

[1] "In respect to the candidates for the Presidency, discussion has somewhat subsided, but it is clear that all public business is colored with the hues borrowed from this subject. Every measure is watched with a jealous regard to its bearing on this point. Kentucky is at present firm for Mr. Clay, and will struggle hard to bring other western interests to bear in his favor. Mr. Crawford's friends are evidently alive and exerting themselves. Beyond all question Virginia means to stick by him. Mr. Adams seems in *statu quo*. I do not hear that he makes any friends, and unless supported by Maryland, he will not have a commanding vote. I do not learn that he has any very zealous partisans at work for him. Mr. Lowndes by present appearances will not ultimately run against any other candidate from South Carolina, but his friends will unite with those of Mr. Calhoun. This latter gentleman stands very high here among elevated and considerate men, and appears to be gaining ground. His youth is against him, and will probably weigh much in abating the wishes in his favor. But in all other respects I am told he is thought superior to most, if not all of the candidates. It is impossible to conjecture what will be the event, and I have not even attempted to speculate on it. I think, if he is not set up, his friends will probably incline to Mr. Adams. The whole Cabinet is by the ears. All are candidates, and as I hear, they are quite shy of each other. I imagine that consultations are merely formal, and advice rarely given in concert." *Story to Jere. Mason*, February 21, 1822. *Memoir of Jeremiah Mason*, 264. See *Crawford to Gallatin*, May 13, 1822, in Adams, *Writings of Gallatin*, II. 243.

TO JOEL LEWIS

WASHINGTON, 20th February, 1822.

SIR:

Your letter of the 12th instant has been received and I answer it with the same frankness with which it was written. The report [1] to which you refer is one among a multitude of falsehoods, which under the varying forms of positive untruth and of invidious misrepresentation are now, and will doubtless continue to be, circulated in every quarter of this Union with a view to counteract, and if possible to extinguish, any favorable disposition which might possibly be entertained of my character and services by my fellow citizens. Of these falsehoods adapted in the several sections of the Union to the particular feelings there prevailing respectively, I have been apprized by communications from many different persons, most of them like yourself persons with whom I have not the advantage of any personal acquaintance, but who witnessing the effects of this undermining species of calumny have, from sentiments of kindness to me for which I am duly grateful, given me notice of it. This system of secret defamation has been pursued with special industry, since the attempt at the close of the last year to obtrude upon the Union at this present session of Congress a caucus candidate for the Presidential election of 1825, and I have no doubt that the *channel* through which the report that has occasioned your letter was conveyed was the same through which that hopeful project was disembogued.

This much I have thought proper to say in answer to the

[1] The report, referred to by Lewis, was that Adams was the friend of W. B. Irish, and active in obtaining for him a reappointment as marshal of the western district of Pennsylvania.

particular subject of your letter. The report which you mention to have been circulated with a view to impair favorable sentiments entertained of me is utterly false. But it is only one of a multitude equally false, circulated for the same or a similar purpose. And permit me now to add that in different quarters of the Union these reports are so numerous and so insidiously circulated, that if I should undertake to refute or answer them all, it would absorb a large portion if not the whole of the time which I am in duty bound to employ in the discharge of my duties to the public service. This explanation was due from me to the good opinion which you had formed of my character, and I have cheerfully given it. At the same time I feel it incumbent upon me to assure you, that with regard to any future prospects of relation between the public service and me after the termination of Mr. Monroe's administration, as no such relation will be in any manner solicited or sought by me, so I shall be prepared to receive the definitive voice of my country concerning it with entire acquiescence and submission. The constitution of the United States has vested the election in the people acting by their regularly organized agents. That confidence which the Constitution has reposed in the calm and deliberate judgment of the people, in a matter always of deep interest to them, I am assuredly not the man to deny them in the bearing which once or twice in the course of my life it may have upon myself. That falsehood of every description will be insinuated by some and asserted by others to deprive me of that estimation in the minds of my fellow-citizens which might incline them to honor me with their highest trust, is what I must and do expect, and is that of which I consider my present experience as only an earnest of that which is to come. Happy will it be for me, if from the test which my character moral and political must abide, it may issue with a

conscience void of offence and free from every essential charge that can claim the sanction of truth.

I am etc.

TO BARON HYDE DE NEUVILLE

Department of State,
Washington, 22 February, 1822.

Sir:

In answer to your letter of the 11th instant, enclosing the report and protest of Pierre Dessu, which have been submitted to the consideration of the President of the United States, I have the honor of informing you that the proper inquiry will immediately be instituted into the circumstances of the case, the result of which I shall have the honor of communicating to you as soon as the same shall have been received.

I have already stated to you that the government of the United States has never asserted, but has invariably disclaimed the pretension of a right to authorize the search by the officers of the United States in time of peace, of foreign vessels upon the high seas, without their jurisdiction. Upon this principle the *Jeune Eugênie* was at your request delivered over to the consul of France at Boston. That vessel and the three others, taken by Lieutenant Stockton on the coast of Africa in the act of slave-trading, were captured by him not as French, but as American vessels, fraudulently abusing, as he supposed, the flag and the official documents of France, in a traffic consigned to infamy by the voice of France as well as of all other christain nations. It is but too well known, that among the most common expedients of those who still pursue that traffic is the substitution of false flags

and papers for those of their own country, under which they are aware that they could not escape detection and punishment. Lieutenant Stockton, meeting vessels of American construction, of the property in which no evidence of the transfer from American to French owners was exhibited, vessels trading in slaves without attempting disguise, yet wearing flags and producing papers bearing every appearance of that fraud and falsehood, inseparable from the prosecution of the trade, concluded [by a reasoning inspired by his zeal for the service with which he was charged, and by a sentiment of respect for France herself] [1] that they could not be entitled to the true character of French vessels, since they were thus openly engaged in a commerce reprobated by the laws of France.

Relying upon your assurance, and on the faith of the documents transmitted with your letter of the sixth of August, that these vessels [notwithstanding the circumstances in which they were found,] [1] were really and exclusively the property of French subjects, a suggestion was, by instruction from the President, made by the District Attorney of the United States to the court, before which the case of the *Jeune Eugênie* was regularly pending; and the court, conformably to that suggestion, did adjudge that the vessel should as you desired, be delivered up to the consul of France, together with the evidence of her participation in the slave-trade, that she might be sent for trial to the tribunals of her own sovereign. Since which instructions have been issued from the Department of the Navy to the officers of the United States charged with the duty of carrying into effect the laws for the suppression of the slave-trade, to forbear all examination or visitation of any vessel bearing a flag of any other nation than that of this Union.

[1] Words within brackets were struck out.

It is presumed that these measures will satisfy your government, as well with regard to the causes of complaint against Lieutenant Stockton, heretofore alleged, as to the disclaimer by the United States of all pretension to a right of search, in time of peace, of the vessels of any nations, not having violated their laws. [The government of the United States is fully sensible that no officer of theirs can by authority from them assume to act as the High Justiciar of the seas. To them it must suffice, if by their vigilance their own flag shall no longer shield from punishment the dealers in this abominable commerce; and if the audacity and notoriety with which vessels exhibiting the standard, and persons appealing successfully to the protection of the French government, still consummate their transcendent wickedness, in all its worst aggravations, should give countenance to those groundless calumnies upon the intentions of France, which you so justly repel, it yet remains to France alone, by the efficacy of her own repressive measures, at once to silence the voice of slander, and to redeem her flag from the pollution of this detested traffic.] [1]

I pray you, etc.

TO PIERRE DE POLETICA [2]

Department of State,
Washington, 25 February, 1822.

Sir:

I have had the honor of receiving your note of the 11th inst. enclosing a printed copy of the regulations adopted by the Russian-American company and sanctioned by his

[1] Sentences within brackets were struck out.

[2] Poletica had been in Washington, 1810–1812, as Secretary to the Russian legation.

Imperial Majesty, relating to the commerce of foreigners in the waters bordering on the establishments of that company upon the northwest coast of America.[1]

I am directed by the President of the United States to inform you that he has seen with surprise in this edict the assertion of a territorial claim on the part of Russia, extending to the 51st degree of north latitude on the continent; and a regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within one hundred Italian miles of the shores to which that claim is made to apply.

[The relations of the United States with H. I. M. have always been of the most friendly character, and it is the earnest desire of this government to preserve them in that state. It was expected, before any act which should define the boundary between the territories of the United States and Russia on this continent, that the same would have been arranged by treaty between the parties. To exclude the vessels of our citizens from the shore, beyond the ordinary distance to which the territorial jurisdiction extends, has excited still greater surprise.] [2]

This ordinance affects so deeply the rights of the United States and of their citizens, that I am instructed to enquire whether you are authorized to give explanations of the grounds of right upon principles generally recognized by the laws and usages of nations which can warrant the claims and regulations contained in it.

I avail myself, etc. [3]

[1] See two dispatches from Nesselrode to Poletica, October 7, 1821, in *American Historical Review*, XVIII, 329. The ukase, dated September 4/16, 1821, is in *American State Papers*, Foreign Relations, IV. 857.

[2] This paragraph, suggested by Monroe, is in his own language.

[3] Nesselrode in his second despatch wrote: "Mais tout en préférant à cet égard le mode le plus confidentiel et le plus amical possible, il nous semble que vous

TO PIERRE DE POLETICA

DEPARTMENT OF STATE,
WASHINGTON, 30 March, 1822.

SIR:

I have had the honor of receiving your letter of the 28th ulto., which has been submitted to the consideration of the President of the United States.

From the deduction which it contains of the grounds upon which the articles of regulation of the Russian-American Company have now for the first time extended the claim of Russia on the northwest coast of America, to the 51st degree of north latitude, its only foundation appears to be the existence of the small settlement of Novarchangelsk, situated not on the American continent, but upon a small island, in latitude 57. And the principle upon which you state that this claim is now advanced is, that the 51st degree is equidistant from that settlement of Novarchangelsk and the establishment of the United States at the mouth of Columbia River. But from the same statement it appears that in the year 1799, the limits prescribed by the Emperor Paul to the

pourriez nêanmoins observer à Mr. Adams, avec la franchise que vous êtes habituê â faire prêsider à vos relations avec ce Ministre, que, du moment ou le gouvernement amêricain s'est dêclarê hors d'êtat de surveiller les opêrations commerciales de ses sujets, et de leur interdire nommément des entreprises qui blessent les intêrêts d'une Puissance étrangêre quelconque, il a par la même reconnu â celle-ci le plein droit d'adopter les mesures les plus efficaces pour réprimer des entreprises de ce genre, et de se garantir, fut-ce même par des moyens coércitifs, contre des prêjudice réels."

On February 19 the Secretary of State, who had known of the ukase since December, had informed Stratford Canning of the official communication of the document, and stating his principal objection to its claims, asked if any information had been received from London. Canning could only reply that he had received as yet no intimation from Londonderry on the subject.

Russian-American Company were fixed at the 55th degree of latitude, and that in assuming now the latitude of 51 a new pretension is asserted, to which no settlement made since the year 1799 has given the color of a sanction.

This pretension is to be considered, not only with reference to the question of territorial rights, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within one hundred Italian miles of the coasts. From the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and the right to navigate them is a part of that independence.

With regard to the suggestion that the Russian government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, because it claims territory both on the American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea in latitude 51 north is not less than ninety degrees of longitude, or 4000 miles.

As little can the United States accede to the justice of the reason assigned for the prohibition above-mentioned. The right of the citizens of the United States to hold commerce with the aboriginal nations of the northwest coast of America, without the territorial jurisdiction of other nations, even in arms and ammunitions of war, is as clear and indisputable as that of navigating the seas. That right has never been exercised in a spirit unfriendly to Russia, and although general complaints have occasionally been made on the subject of this commerce by some of your predecessors, no specific ground of charge has ever been alleged by them of any transaction in which the United States were, by the ordinary laws and usages of nations, bound either to restrain or to punish. Had any such charge been made, it would

have received the most pointed attention of this government, with the sincerest and firmest disposition, to perform every act and obligation of justice to yours, which could have been required. I am commanded by the President of the United States to assure you that this disposition will continue to be entertained, together with the earnest desire that the most harmonious relations between the two countries may be preserved.

Relying upon the assurance in your note of similar dispositions reciprocally entertained by his Imperial Majesty towards the United States, the President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights.

I am happy to renew, etc.

TO DON JOAQUIN DE ANDUAGA [1]

Department of State,
Washington, 6 April, 1822.

Sir:

Your letter of the 9th of March [2] was immediately after I had the honor of receiving it laid before the President of the

[1] Printed in *American State Papers*, Foreign Relations, V. 380.

[2] On January 22, 1822, the House of Representatives requested the President to lay before it such communications as it might have from the agents of the United States in the revolting states, or from the agents of those states in the United States, showing the political conditions of those governments, and the state of war between them and Spain. The President replied by a message, March 8, stating "that it merits the most profound consideration whether their right to the rank of independent nations . . . is not complete." *Messages and Papers of the Presidents*, II. 116. On seeing the message in the *National Intelligencer*, Anduaga prepared a

United States, by whom it has been deliberately considered, and by whose direction I am replying to it, to assure you of the earnestness and sincerity with which the government desires to entertain and to cultivate the most friendly relations with that of Spain.

This disposition has been manifested, not only by the uniform course of the United States in their direct political and commercial intercourse with Spain, but by the friendly interest which they have felt in the welfare of the Spanish nation, and by the cordial sympathy with which they have witnessed their spirit and energy, exerted in maintaining their independence of all foreign control, and their right of self-government.

In every question relating to the independence of a nation two principles are involved, one of *right*, and the other of *fact;* the former depending upon the determination of the nation itself, and the latter resulting from the successful execution of that determination. This right has been recently exercised as well by the Spanish nation in Europe, as by several of those countries in the American hemisphere, which had for two or three centuries been connected as colonies with Spain. In the conflicts which have attended these revolutions, the United States have carefully abstained from taking any part, respecting the right of the nations con-

protest dated March 9, which is printed in *American State Papers*, V. 379. Stratford Canning wrote to Planta, April 3: "Government and citizens, one and all, are very proud of the pending measure for acknowledging the independence of South America, though it is quite clear that they are not disposed to incur any real risk for the sake of this favorite object. Adams confessed to me that he regarded Spain as a man under the pressure of a nightmare, longing to raise his arm, but unable to stir a muscle. I had previously accosted him by saying, 'So, Mr. Adams, you are going to make honest men of them?' 'Yes, Sir,' was his answer; 'we proposed to your Government to join us some time ago, but they would not, and now we shall see whether you will be content to *follow* us.' This was a cut in his old style." Lane-Poole, *Life of Stratford Canning*, I. 309.

cerned in them to maintain or new organize their own political constitutions, and observing, whereon it was a contest by arms, the most impartial neutrality. But the civil war, in which Spain was for some years involved with the inhabitants of her colonies in America, has in substance ceased to exist. Treaties equivalent to an acknowledgment of independence have been concluded by the commanders and viceroys of Spain herself, with the Republic of Colombia, with Mexico, and with Peru; while in the provinces of La-Plata and in Chile, no Spanish force has for several years existed, to dispute the independence which the inhabitants of those countries had declared [and which has already been formally recognized by their immediate neighbor and ally of Spain, the king of Portugal]. [1]

Under these circumstances the government of the United States far from consulting the dictates of a policy questionable in its morality, has yielded to an obligation of duty of the highest order, by recognizing as independent states, nations, which after deliberately asserting their right to that character, have maintained and established it against all the resistance which had been or could be brought to oppose it. This recognition is neither intended to invalidate any right of Spain, nor to affect the employment of any means which she may yet be disposed or enabled to use, with the view of reuniting those provinces to the rest of her dominions. It is the mere acknowledgment of existing facts, with the view to the regular establishment with the nations newly formed of those relations, political and commercial, which it is the moral obligation of civilized and Christian nations to entertain reciprocally with one another.

It will not be necessary to discuss with you a detail of facts, upon which your information appears to be materially

[1] The phrase in brackets was struck out.

different from that which has been communicated to this government, and is of public notoriety; nor the propriety of the denominations which you have attributed to the inhabitants of the South American provinces. It is not doubted that other and more correct views of the whole subject will very shortly be taken by your government, and that it, as well as the other European governments, show that deference to the example of the United States, which you urge it as the duty or the policy of the United States to show to theirs. The effect of the example of one independent nation upon the councils and measures of another, can be just only so far as it is voluntary; and as the United States desire that their example should be followed, so it is their intention to follow that of others upon no other principle. They confidently rely that the time is at hand when all the governments of Europe friendly to Spain, and Spain herself, will not only concur in the acknowledgment of the independence of the American nations, but in the sentiment that nothing will tend more effectually to the welfare and happiness of Spain than the universal concurrence in that recognition.

I pray you, etc.

TO DON JOAQUIN DE ANDUAGA

DEPARTMENT OF STATE,
WASHINGTON, 15 April, 1822.

SIR:

In the letters which I had the honor of writing you on the 2d of November and 31st of December last,[1] you were informed that a definitive answer to the complaints against

[1] Printed in *American State Papers*, Foreign Relations, IV. 791.

certain proceedings of General Andrew Jackson, while governor of Florida, which were contained in a letter to this Department from Don Hilario de Rivas y Salmon before your arrival in this country, and in your letters of the 18th and 22d of November, would be given, after the substance of those complaints should have been made known to General Jackson, and his explanations of the motives and considerations by which he had been governed in adopting the measures complained of should have been received.

In performing this province I am commanded by the President of the United States to repeat the assurance of his deep regret, that the transactions which formed the subject of those complaints should ever have occurred, and his full conviction, upon a review of all the circumstances which have attended them, that they are attributable entirely to the misconduct of the Governor and Captain General of Cuba, and of the subordinate officers of Spain, in evading and refusing the fulfilment of the most express and positive stipulations of the treaty, both of evacuating the province within six months from the exchange of the ratifications of the treaty, and of delivering the archives and documents relating directly to the property and sovereignty of the provinces.

At the time of the exchange of the ratifications of the treaty your predecessor, General Vivés, delivered an order from his Catholic Majesty to the Captain General and Governor of the island of Cuba, *and of the Floridas*, informing him of the cession to the United States of that part of the provinces of which he was the governor, that was situated on this continent, and instructing him as follows:

I command you and ordain, that after the information which shall be seasonably given you by my minister plenipotentiary and

envoy extraordinary at Washington of the ratifications having been exchanged, you proceed on your part to make the proper dispositions, in order that, at the end of six months, counting from the date of the exchange of the ratifications, *or sooner, if possible*, the Spanish officers and troops may evacuate the territories of both Floridas, and that possession of them be given to the officers or commissioners of the United States, *duly authorized to receive them*. . . . You shall arrange in proper time the delivery of the islands adjacent and dependent upon the two Floridas, and the public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property; as also the archives and documents which relate directly to the property and sovereignty of the same two provinces, by placing them at the disposal of the commissaries or officers of the United States, *duly authorized to receive them*.

This order, thus clear and explicit, was dispatched, together with letters from General Vivés to the Governor of Cuba and the Floridas, notifying him of the exchange of the ratifications of the treaty, by Col. James G. Forbes, who was commissioned "as agent and commissary of the United States to deliver to him the royal order, to arrange and concert with him, conformably to instructions committed therewith, the execution of the above stipulations, and to receive from the said governor, and from any and every person possessed of the said archives and documents, all and every one of the same, and to dispose thereof in the manner prescribed by his instructions." Col. Forbes' authority thus was to *receive* the documents and archives, and to *concert and arrange* with the governor of the Floridas, the *delivery* of those provinces, which General Jackson was commissioned to receive, take possession of and occupy; and of which he was further commissioned to be the governor, when surrendered to the United States.

The royal order was delivered by Col. Forbes to the governor of the Floridas at the Havanna on the 23d of April, 1821. There has been shown by that governor no cause or reason which could justly have required him to delay the delivery of the documents and archives, and the arrangements for the delivery of the provinces, beyond the term of a single week. There were *twenty* boxes of those archives and documents, the whole, or with very few exceptions the whole of which ought, by the positive stipulation of the treaty, and by the express order of the King of Spain, to have been immediately delivered to Col. Forbes. Not one of them was delivered to him; nor has one of them been delivered to this day.

[On the most frivolous pretences] [1] the orders for the surrender of the provinces were delayed from day to day, notwithstanding the urgent and continual solicitations of Col. Forbes, for the term of six weeks; at the end of which, to avoid further indefinite procrastination, he was compelled to depart without receiving the archives and documents, but with repeated promises of the governor that they should be transmitted to this government, promises which have remained to this day unperformed.

The orders for the delivery of the provinces themselves were not only thus unreasonably withheld, but when made out, though not furnished to Col. Forbes till the last week in May, were made to bear date on the fifth of that month: nor were they prepared conformably to the stipulation of the treaty, or to the royal order of his Catholic Majesty. For instead of directing the surrender to be made to the commissioners or officers of the United States, *duly authorized to receive them*, the instruction to the commanders in East and West Florida was to deliver those respective provinces to

[1] Words in brackets were struck out.

Col. Forbes himself, who had from the United States no authority to receive them. And although expressly advised by Col. Forbes with the request that the orders of delivery might be amended and made conformable to the treaty, and to the royal command, Governor Maby did not so amend it, but reduced Col. Forbes to the alternative of submitting to further [prevaricating] [1] delays, or of departing with an imperfect and ambiguous order of delivery of West Florida, authorizing its surrender to the legally constituted authorities of the United States (that is, as Governor Maby well knew, to General Andrew Jackson) only, in case of any accident happening to Col. Forbes, whom he still affected to consider, notwithstanding his own express declaration to the contrary, as the commissioned agent of the United States to that effect.

The twenty boxes of documents and archives, which were at the Havanna, as has been mentioned, had been transmitted thither from Pensacola, and contained all the most important records of property in West Florida. The possession of them was in the highest degree important to the United States; not only as the vouchers of individual property, but as protecting guards against the imposture of fraudulent grants. [The longer they were withheld the stronger continuance must be given to the suspicions which their intention could not but occasion that it was with improper views. It is known that the governors and captains general of Cuba and of the Floridas have exercised the power of granting lands in those provinces; and there is more than conjecture for the belief that to the injury of withholding those documents has been added the still more exceptionable act of intruding among them grants made since the delivery of the provinces to the United States, and antedated to give

[1] Words in brackets were struck out.

them a semblance of validity. The delicacy due to the character of an officer of distinguished rank would forbid the imputation to him of motives so dishonorable, were it possible to ascribe his conduct in this wanton violation of the rights of the United States, of the obligations of Spain, and of the commands of his sovereign, to more justifiable purposes.] [1] But the same persevering system of withholding documents which it was their duty to deliver, has marked, I am deeply concerned to say, the conduct of both the commanders of East and West Florida, who were charged respectively to deliver those provinces to the United States.

It is to this cause, and to this alone, as appears from a review of all the transactions of which you have complained, that must be traced the origin of all those severe measures which General Jackson himself was the first, while deeming them indispensable to the discharge of his own official duties, to lament. Charged as he was with the trust of receiving the provinces in behalf of the United States, of maintaining their rights of property within them, of guarding them to the utmost of his power from those frauds, to which there was too much reason to apprehend they would be liable, and to which the retention of the documents gave so great and dangerous scope; entrusted from the necessity of the case, during the interval of time while the general laws of the United States remained unextended to the provinces, with the various powers which had until that time been exercised by the Spanish governors, and which included the administration of justice between individuals, it was impossible that he should not feel [with all the ardor of a soul devoted above all other things to the fulfilment of his duties,] [2] the necessity of exercising, under circumstances thus exas-

[1] What is in brackets was struck out.

[2] Words in brackets were struck out.

perating and untoward, every authority committed to him by the supreme authority of his country, to preserve inviolate, so far as on him depended, the interest of that country, and the sacred obligations of individual rights. In the proceedings connected with the delivery of the province, he had as little reason to be satisfied with the [candor and good faith] [1] of Col. Callava, as with that of the Captain General. On a plea of indisposition that officer had, on the day of the surrender, evaded the performance of a solemn promise, which General Jackson had considered an indispensable preliminary to the act: and afterwards the Colonel positively declined its fulfilment. He had however completed the surrender of the province with which he had been charged. He had declined producing to General Jackson any credential as a commissioner for performing that act, but had informed him that he should make the surrender as the commanding officer of the province, by virtue of orders from his superior. This service had been consummated, and Col. Callava, whom General Jackson had formally notified that he had closed with him his official correspondence forever, was, bound by the special stipulation of the treaty, to have evacuated, as one of the Spanish officers, the province, before the 22 of August. If General Jackson had, in courtesy to Col. Callava, considered him, notwithstanding his own disclaimer of the character, as a *commissioner* for the delivery of the province, there can be no pretence that he was entitled to special privileges under it, after he had avowedly performed all its duties; after he had been informed by General Jackson that their official correspondence was finally closed, and after the date when, by the public engagements of the treaty which he was to execute, he was bound to have departed from the province. From the time

[1] For these words "conduct" was substituted.

when his functions for the surrender of the province were discharged, he could remain in Pensacola no otherwise than as a private unprivileged individual, amenable to the duly constituted American authorities of the place, and subject to the same control of General Jackson as a private citizen of the United States would have been to that of the governor of the Floridas before the surrender had taken place.

That this was the opinion of Col. Callava himself and of his friends who applied to Judge Fromentin for the writ of habeas corpus to rescue him from the arrest under which he was placed by the order of General Jackson, is apparent from their conduct on that occasion. It is stated by Judge Fromentin, that before granting the supposed writ of habeas corpus, he required that Col. Callava should enter into a recognizance for twenty thousand dollars, with two securities, each for the amount of ten thousand dollars; the condition of which recognizance was that Col. Callava should personally be and appear before the judge of the United States for West Florida, etc., whenever required so to do; that he should not depart from the city of Pensacola without the leave of the said court, nor send away, remove, or otherwise dispose of, unknown to the said court, any of the papers in question. It was only upon the promise of his friends that this recognizance should be executed, that Judge Fromentin consented to issue the writ of habeas corpus; and this recognizance renounces in fact every pretension of exemption from the judicial authority of the country, and consequently of the diplomatic privileges of a commissioner.

It has been seen that the most important documents relating to the property of West Florida had been transmitted to the Havanna. There remained, however, a portion of them, particularly of judicial records relating to the titles of individual property. Some of these Col. Callava did

deliver up with the province. Others of the same description and character indispensable for the administration of justice in the province, and useless at the Havanna, whither it was his intention to have transported them, were retained; not in his possession, but in that of Don Domingo Souza, a Spanish officer, who by the stipulation of the treaty ought also to have departed from the province before the 22d of August.

The day immediately preceding that date, the Alcalde of Pensacola, at the suit of a woman in a humble walk indeed of life, but whose rights were, in the eye of General Jackson, equally entitled to his protection with those of the highest rank, or the most commanding opulence, had represented to him that a number of documents belonging to the Alcalde's office, and relating to estates at that place, and to suits there instituted, were in the possession of Domingo Souza; that the necessity for obtaining possession of those documents was urgent; and therefore he requested the governor to authorize some one to make a regular demand of them, and to ascertain what they were. Governor Jackson, accordingly, forthwith commissioned the secretary of the territory, the Alcalde of Pensacola himself, and the clerk of the County Court of Escambia, to proceed to the dwelling of Souza, to make demand of all such papers or documents belonging to the Alcalde's office as might be in his possession; and in case of Souza's refusal to exhibit or deliver the same, immediately to report the fact to him, the governor, in writing. These commissioners the next day reported to the governor, that they had examined the papers in the possession of Souza; that they had found among them four sets of papers of the kind which belonged to the office of the Alcalde, and among them those in which the woman, from whom the first application had proceeded, was interested; that they had both

verbally and in writing demanded of him the delivery of those documents which no private individual had a right to keep, as they related to the rights of persons holding or claiming property in the province; but that Souza had refused to deliver them, alleging that he was but the servant of Col. Callava, and could not deliver them without his order. In the transactions of Souza on this occasion is manifested the same consciousness that the claim of diplomatic privilege set up by Col. Callava, to screen him from the operation of the authority of Governor Jackson, was without foundation. For although he refused to deliver up the papers conformably to the governor's command, he submitted to the examination of them by the commissioners in obedience to the same authority; and though he declined receiving from them the letter demanding the delivery of the papers, he told them that to relieve himself from the responsibility of keeping them, he should deliver them to Col. Callava himself.

They were accordingly sent to the house of Col. Callava, and put into the possession of his steward, Fallarat. It is clear however, that if the papers, while in Souza's possession were privileged from delivery up at the command of Governor Jackson, they were equally privileged from examination by the same authority; and if they were not lawfully screened from his process in the custody of Souza, they could not be made so by removing them to the house of Col. Callava. The truth is that the removal of the documents, at that time and in such a manner, was a high and aggravated contempt of the lawful authority of the governor. It not only claimed for Col. Callava diplomatic immunities, but assumed that he was still the governor of the province, and that Souza was amenable for his conduct only to him. Col. Callava might on the same pretence have retained the whole body of the Spanish officers and troops under his command at Pensacola,

and insisted upon exercising over them all his extinguished authority as governor and commander in chief after the 21st of August, as he could to exercise any official authority, within the province, over Domingo Souza, or to extricate him from the lawful jurisdiction of Governor Jackson.

It is under these circumstances [under this prevaricating and insulting contempt of his just authority, exercised in the pursuit at once of humanity, beneficence, and justice,] [1] that the subsequent measures of Governor Jackson are to be considered. He immediately issued an authority to Col. Robert Butler and Col. John Miller to seize the body of Souza, together with the papers, and to bring them before him, that Souza might answer such interrogatories as might be put to him; *and comply* with such order and decree touching the said documents and records *as the rights of the individuals, secured to them by the treaty, might require, and the justice of the case might demand.* By virtue of this order Souza was brought before Governor Jackson, and again recognized the authority under which he was taken, by answering the interrogatories put to him. But he had already put the papers and documents out of his possession, and thus, as far as was in his power, baffled the ends of justice, and set at defiance the lawful authority of the governor. In this transaction Col. Callava was avowedly the principal agent; and altogether unjustifiable as it was, whatever consequences of inconvenience to himself resulted from it, must be imputed to him. It was an undisguised effort to prostrate the authority of the United States in the province; nor had Governor Jackson any other alternative to choose, than tamely to see the sovereign power of his country, entrusted to him, trampled under foot and exposed to derision by a foreigner, remaining there only upon his

[1] Words in brackets were struck out.

sufferance, or by the vigorous exercise of his authority to vindicate at once the rights of the United States and the just claims of individuals to their protection.

Governor Jackson could consider Col. Callava in no other light than that of a private individual, entitled indeed as the officer of a foreign power to courtesy, but not to exemption from the process of the law. Notwithstanding [the exasperating character of][1] his contemptuous[2] conduct, Governor Jackson in the first instance authorized Col. Butler and Dr. Bronaugh, accompanied by Mr. Brackenridge, the Alcalde, to wait upon him and his steward, and to demand from them the specified papers, which Souza had declared in his answer to the interrogatories to have been delivered to the steward at Governor Callava's house. It was only in case of the refusal to give up the papers that the order extended to the seizure of the person of Col. Callava, that he might be made to appear before Governor Jackson, to answer interrogatories, and to abide by and perform such order and decree as the justice of the case might demand.

This demand was accordingly made; and although at the first moment peremptorily refused, yet upon Col. Callava's being informed that his refusal would be considered as setting at defiance the authority of the governor of the Floridas, and of the consequences to himself which might ensue upon his persisting therein, he [declared that if he should be furnished with a copy of the memorandum setting forth the documents required, he would deliver them to Col. Butler and Dr. Bronaugh].[3]

[This promise was another manifestation of Col. Callava's consciousness that he had no claim to the immunities of a

[1] These words were struck out.

[2] The word "improper" was substituted for "contemptuous."

[3] This was changed to read: "desired to be furnished with a memorandum setting forth the documents required, which was accordingly done."

commissioner at that time. Happy would it have been for him, and for all, if he had performed it. The copy of the memorandum was accordingly furnished him,] [1] but when the delivery of the papers was again demanded of him, he repeated the refusal to deliver them, and attempted both to avoid the personal approach of Col. Butler and Dr. Bronaugh, and to exhibit a resistance by force of arms to the execution of the governor's order. And it is not a little remarkable that among the persons who appeared thus arrayed against the authority of the United States, to accomplish the denial and removal of the papers, was a man, against whom the most important of those papers were judicial decisions of Governor Callava himself in behalf of the orphan children, for the establishment of whose rights they were indispensably necessary and at whose application they had been required.

Standing thus in open defiance to the operation of the law, Col. Callava was taken before the governor, and there refusing to answer the interrogatories put to him, and asserting the groundless pretension of answering only as a commissioner, and by a protest against the acts of the governor, he was by his order committed to prison until the documents should be delivered to the Alcalde. On the next day a search warrant for the papers was issued by the governor, upon which they were actually obtained, and delivered to the Alcalde; whereupon Col. Callava was immediately released.

In all these proceedings you will perceive, sir, that not one act of rigor, or even of discourtesy towards Col. Callava was authorized by Governor Jackson, which was not indispensably necessitated for the maintenance of his authority, and the discharge of his official duty, by the unjustifiable and obstinate resistance of Col. Callava himself.

[1] What is in brackets was struck out.

On a review of the whole transactions I am instructed by the President of the United States to say that he considers the documents in question as among those which by the stipulation of the treaty ought to have been delivered up with the province to the authorities of the United States; that they were on the 22d of August, when in the possession of Domingo Souza, within the jurisdiction of the United States, and subject to the control of their governor, acting in his judicial capacity, and liable to be compulsively produced by his order; that the removal of them from the possession of Souza after the governor's order to him to deliver them had been served upon him, could not withdraw them from the jurisdiction of Governor Jackson, and was a high and aggravated outrage upon his lawful authority; that the imprisonment of Col. Callava was a necessary, though by the President deeply regretted consequence of his obstinate performance in refusing to deliver the papers [even after having given his promise to deliver them,] [1] and of his unfounded claim of diplomatic immunities and irregular exercise even of the authorities of a governor of Florida, after the authority of Spain in the province had been publicly and solemnly surrendered to the United States.

That the documents were of the description of those which the treaty had stipulated should be delivered up with the province is obvious from the consideration of their character. They related to the property of lands in the province. They were judicial records, directly affecting the rights of persons remaining in the province--rights which could not be secured without them; rights over which the appellate tribunal of the governor of Cuba, to which Col. Callava proposed to remove the papers, thenceforth could have no authority or control. They had become definitively

[1] These words were struck out.

subject to the jurisdiction of the United States [and it was the duty of General Jackson, at the demand of the person interested in them, to prevent the removal, and to exact the delivery of them].[1] The only reason assigned by Col. Callava for the pretension to retain them is that they related to the estate of a deceased Spanish officer, and had thereby been of the resort of the military tribunal. But it was for the rights of the living and not for the privileges of the dead that the documents were to operate. The tribunal of the captain general of Cuba could neither need the production of the papers, nor exercise any authority over the subject-matter to which they related. To have transferred to the island of Cuba a question of litigated property concerning land in Florida, would have been worse than a mockery of justice. Indeed, Mr. Salmon in his note appears to have been aware of the weakness of this allegation, declines the discussion of the question, and in justification of the refusal of Col. Callava to deliver up the documents, merely rests its defence upon the plea, that the papers had not been demanded of him *officially*. It has been seen that Col. Callava had no official character which could then exempt him from the compulsive process of the governor. But Mr. Salmon alleges that the Spanish constitution, as well as that of the United States, separates the judicial from the executive power exercised by the governor or captain general.

Neither the constitution nor the laws of the United States, excepting those relating to the revenue and its collection, and to the slave-trade, had at that time been extended to Florida. And as little had the Spanish constitution been introduced there, in point of fact, however, it might have been proclaimed. But be this as it may, the cause, in relation to which the documents required in the case of Vidal had

[1] These words were struck out.

been drawn up and were needed, was one of those which, under the Spanish constitution itself, remained within the jurisdiction of the governor. This is declared by Col. Callava himself, in the third observation of the appendix to his protest, transmitted with the letter of Mr. Salmon. It is the reason assigned by him for having withheld these documents from the Alcalde. And one of them was a judgment rendered by Col. Callava himself after the time when the proclamation of the Spanish constitution in the provinces is alleged to have been made. The cause therefore was on every hypothesis within the jurisdiction of the governor; the papers were indispensable for the administration of justice in the cause, and when once applied for by a person entitled to the benefit of them, it was the duty, the inexorable duty of Governor Jackson, to put forth all the authority vested in him necessary to obtain them. Nor less imperative was his obligation to punish, without respect of persons, that contempt of his jurisdiction which was manifested in the double attempt of Col. Callava, to defy his power and evade the operation of its process.

With regard to the proclamation of General Jackson of the 29th of September, commanding several Spanish officers who, in violation of the stipulation of the treaty, had remained at Pensacola after the expiration of the six months from the day of the ratification of the treaty, to withdraw within four days from the Floridas, which forms the subject of complaint in your letter of the 18th of November, it might be sufficient to say that it did no more than enjoin upon those officers to do that which they ought before, and without any injunction to have done. The engagement of the treaty was that they should all have evacuated the province before the 22d of August. If they remained there after that time, it could only be as private individuals, amenable in every

particular to the laws. Even this was merely an indulgence, which it was within the competency of General Jackson at any time to have withdrawn. From the extract of a letter from him, of which I have the honor of enclosing a copy, it will be seen that he was far from being disposed to withdraw it, had they not, by their abuse of it and by open outrages upon his authority, forfeited all claims to its continuance.

This extract furnishes a satisfactory answer to your question, why, if the fulfilment of the article was the object of the proclamation, it was confined to the eight officers by name, and not extended to all other Spanish officers in the Floridas? It was because the deportment of the others was as became them, decent, respectful, and friendly towards the government, under the protection of which they were permitted to abide. In the newspaper publication, which gave rise to the proclamation of General Jackson, the Spanish officers avowedly acted, not as private individuals, but as a distinct body of men, speak of Col. Callava as *their* chief, *their* superior, and arrogating to themselves, as a sort of merit, the condescension of knowing what was due to a government (meaning the American government), which was on the most friendly footing with *their own*. This is language which would scarcely be proper for the ambassador of one nation, upon the territory of another, to which he would owe not even a temporary allegiance. From persons situated as those Spanish officers were, it was language of insubordination and contempt.

In alluding to the fact that officers of the American squadron in the Mediterranean are sometimes received with friendly treatment on the territories of Spain, to make a case parallel with the present it would be necessary to show that some superior officer of the said squadron should, while

enjoying the hospitality of the Spanish nation upon their shores, first attempt to evade and to resist the operation of process from the constituted judicial tribunals of the country, and then pretend as an American officer to be wholly independent of them; and that some of his subalterns should not only countenance and support him in these attempts, but should affect to consider him, while on Spanish ground, as their only superior and chief, and by unfounded and inflammatory publications in the daily journals to rouse the people of Spain to revolt and insurrection against the judicial tribunal of their own country. If the bare statement of such a case would be sufficient to raise the indignation of every honorable Spaniard, let it be observed that even this would be without some of the aggravations of the conduct of these Spanish officers at Pensacola. For such outrage would be far less dangerous committed against old established authorities, which might rely upon the support of the whole people surrounding them, than in the presence of a people whose allegiance had been but just transferred to a new government, and when the revolt to which they were stimulated would seem little more than obedience to the authorities to which they had always been accustomed to submit. The very power, which the Spanish governor and officers had exercised before the surrender of the province, ought to have been a most urgent warning to them to avoid every semblance of authority in themselves, or of resistance to that of the United States, after the transfer of the province had been completed.

In forbearing particularly to reply to that part of your note, in which you think yourself authorized to pronounce the charge of General Jackson against these Spanish officers, of having attempted to excite discontent in the inhabitants, *false*, I shall barely express the hope that the term was

admitted into your communication inadvertently. The conduct of the officers at the time of Col. Callava's conflict with the authority of the governor, as well as in their insulting newspaper publications, was of a character and tendency too strongly marked to leave a doubt of the truth with which it is described in General Jackson's proclamation; and in passing unnoticed this and other mere invectives against an officer whose services to this nation have entitled him to their highest regard, and whose whole career has been signalized by the purest intentions and the most elevated purposes, I wish to be understood as abstaining from observations which, however justified by the occasion, could but add to the unpleasantness of a discussion already sufficiently painful.

That this conduct on the part of the Spanish officers was criminal,[1] cannot reasonably be denied, and had General Jackson been disposed to animadvert upon it with severity, his course would undoubtedly have been that which you have pointed out as appropriate to the offence. They would have been cited before the proper tribunal, heard upon specific charges, allowed time and liberty to make their defence, and punished by commitment to prison. General Jackson preferred a milder and more indulgent measure; and without prosecuting them as criminals, only withdrew from them the privilege of a protracted infraction of the treaty, by requiring them forthwith to depart from the province. To justify him in this requisition neither arrest nor trial was necessary or proper. The facts were of public notoriety and could not be denied. The proclamation only required of them the execution of the treaty by the removal of their persons. Had their conduct even been unexceptionable, this measure would have been within the undoubted authority of

"[1] Highly reprehensible" was substitued for "criminal."

General Jackson. As their deportment had been, it was the most lenient exercise of his power practicable to vindicate the insulted honor and justice of his country.

I pass to the consideration of the complaints contained in your letter of the 22d of November. In order to take a correct view of this subject, it is again necessary to advert to the royal order of his Catholic Majesty to the Captain General and Governor of the island of Cuba and of the Floridas, commanding him to cause to be placed at the disposal of the commissaries or officers of the United States, duly authorized to receive them, the archives and documents relating directly to the property and sovereignty of the two provinces.

On the 16th of May, the said Captain General and Governor wrote to Col. Forbes, that "respecting East Florida, where there ought to be found all her archives, he, Governor Maby would direct Governor Coppinger to make a formal delivery of that Province, *as well as of the documents belonging to it.*"

On the 24th of May Col. Forbes wrote to the Captain General, reminding him of the repeated promises made by his excellency, to dispatch him with the archives which were to be delivered and then were at the Havanna, and with the orders for the delivery of the provinces, and of the archives deliverable there; of the continual disappointments to which he had been subjected by the failure of performance to those provinces; and of the necessities which urged his immediate departure. He therefore proposed, "that if further researches should be necessary for the discovery of the said archives, they might be delivered when more convenient to the Spanish government; that he (Col. Forbes) should be allowed to proceed immediately to West Florida with the commissary appointed to carry the final order to

the sub-governor there; and lastly, that a duplicate order be given at once, *as agreed upon*, to the governor of East Florida, for the delivery of that province to the constituted authorities of the United States, *together with the archives which were declared to be on the spot.*"

On the 29th of May the Captain General answered this letter and enclosed to him the orders to the several governors of East and West Florida, for the delivery of the provinces, antedated as I have already mentioned, with a declaration that the archives then at the Havanna, and which ought to have been delivered to Col. Forbes, *should be transmitted to the government* of the United States as soon as they were selected—a promise, as I have before observed, yet unfulfilled.

These orders of the Captain General to the commanders of East and West Florida are further remarkable by the omission of any direction in them for the delivery of the archives and documents. It had been expressly agreed by him with Col. Forbes, that the order for the delivery of East Florida should include that of the archives. But it was not sufficient for Governor Maby to avoid the performance of the promise. By the letter from Col. Butler to General Jackson of 21 January last, a copy of which I have the honor to enclose, it appears that with regard to the greatest and most important part of those documents, he had expressly instructed Col. Coppinger *not* to deliver them. And hence, when on the 18th of June Col. Butler, the officer of the United States authorized to receive the province, notified Col. Coppinger that he had designated Major Cross to receive the archives relating to the sovereignty and individual property of the province, he was answered by Col. Coppinger, "as respects the delivery of the public archives containing the records of individual property of this province, *that will be delayed*, until

various doubts that occur are cleared up; but they will not be removed until then, nor will I leave this place until all matters are regulated and concluded between us that demand my personal assistance."

Thus upon the pretence of doubts, the nature of which was not explained, Col. Coppinger declined positively to deliver up documents conformably to the express stipulation of the treaty. Col. Butler immediately proposed to him a conference on the subject, which was held on the 21st of June. At that conference Col. Coppinger told Col. Butler, that "as an individual he believed those archives should be given over to the United States, but that *his orders precluded him from turning them over.*" Colonel Butler therefore assented, as indeed no other alternative seemed to be left him, that Col. Coppinger should have time to write to the Captain General of Cuba for the decision of his doubts, and mentioned to him the opportunity of a vessel then about to sail for the Havanna, whence she was to return to St. Augustine, and might bring the answer of the Captain General. Col. Coppinger on the 22d of June informed Col. Butler that he had that day written to the Captain General for the solution of his doubts, and until he received his answer, the archives should not be removed from St. Augustine, and should remain precisely as they were. Col. Butler, by his letter of 26 June, agreed to remain silent on the head of the archives until the answer should be received from the Captain General; but within one week from that time Col. Butler received information that a large portion of these documents were packed for transportation. He wrote therefore on the 3d of July to Col. Coppinger, enumerating specifically several kinds of records relating directly to the property of the province, and declaring that he considered them among those which were not to be removed. The reply to which by Col.

Coppinger is especially to be remarked, as expressing his opinion, that several of those documents were *excluded from delivery*. There can be no reasonable doubt that all the papers specified by Col. Butler's letter were of those which the treaty had stipulated should be delivered up. When therefore General Jackson considered and compared together the express and positive order of the King of Spain to the Captain General and Governor of Cuba, that he should faithfully see to the delivery of the documents, the [shifting and frivolous] [1] pretences on which he evaded the delivery to Col. Forbes of those which were at the Havanna, within his own control; the *promise* that he would direct the delivery by Col. Coppinger of those that were at St. Augustine; the peremptory postponement of Col. Coppinger to deliver up any documents or records relating to individual property; his engagement that none of them should be removed until he should receive further instructions from the Captain General, and within one week after, his attempt to pack up for transportation to Cuba a large portion of them; and finally his pretension that many papers, manifestly having direct relation to the property of the province, were excluded from delivery; and his recurrence to the *literal* sense of his orders from the Captain General, with the verbal avowal to Col. Butler of his own opinion, that the documents ought to be delivered, though he was forbidden by his instructions to deliver them; it was impossible for General Jackson to close his eyes against [indications so demonstrative of tarnished faith and violated engagements].[2] He therefore gave instructions to the officer commanding at St. Augustine to take possession of the papers which the treaty had stipulated should be delivered.

[1] These words were struck out.

[2] For these words, "proceedings so unjustifiable and improper" were substituted.

The necessity for taking possession of them had indeed arisen before the instructions of General Jackson were received. Most of the records relating to individual property had been left in possession of Don Juan de Entealgo; who, on the pretence that he had purchased at public sales under the Spanish government, not only these documents, but the office of register of them, openly advanced the claim of retaining the records as his private property, and of continuing the exercise of the office, and receiving fees for granting copies of the papers.

These pretensions were raised on the 5th of September, nearly three months after the doubts of Col. Coppinger had, with the consent of Col. Butler, been referred to the Captain General and Governor of Cuba. Long before that time the answer of that officer ought to have been received, peremptorily commanding the delivery of the papers. It was impossible that the United States should acquiesce in the claims of Mr. Entealgo. They were unquestionably entitled to the documents; and whatever injury he might sustain by the delivery of them, it might give him a fair demand of indemnity from his own government, but certainly not from the United States.

Yet the secretary and acting governor, Mr. Worthington, allowed a further delay of nearly a month, before taking the decisive measures necessary to obtain the documents. He then, on the 3d of October, authorized three persons of respectable character to obtain them, with the use of force if necessary; but with all suitable delicacy and respect towards the persons who had been the officers of Spain in the provinces. I have the honor of enclosing herewith copies of the orders from the Secretary Worthington to the commissioners appointed by him to receive, and affidavits to examine and assort the papers, and of their reports to him, exhibiting the

manner in which both those services were performed. They will prove that every regard was shown towards Col. Coppinger and Mr. Entealgo, compatible with the execution of the duty, and after the assortment of the papers, all those which were not of the description stipulated to be delivered over by the treaty have ever been and yet are ready to be returned to Col. Coppinger, or to any person duly authorized to receive them.

Such is the view which I am instructed to say has definitively been taken by the President of the United States, in relation to the transactions which formed the subjects of your letters of 18 and 22 of November last, and of that of Mr. Salmon of 6 October. He is satisfied that by the proceedings of the Governor of Florida towards Col. Callava on the 23d of August last, and towards certain individuals, presuming to act as a body of Spanish officers in Florida, in contempt of the authority of the United States, on the 29th of September; and by those of the Secretary of East Florida, acting as governor, on the 2d and 3d of October, towards Col. Coppinger and Don Juan de Entealgo, no intention of injury or insult to his Catholic Majesty or his governor was intended; and that no just cause of complaint by them was given. That those measures were all rendered necessary by the total disregard of the Captain General and Governor of Cuba and the Floridas, and of his subordinate officers in the Floridas, not only of the solemn stipulation in the treaty for the delivery of the archives and documents directly relating to the property of the provinces, but of the royal order of their sovereign, commanding the said Captain General to see to the faithful execution of that engagement — an engagement, in the fulfilment of which the rights not only of the United States, but of every individual inhabitant of the provinces and proprietors in them were deeply and vitally

interested. The mere enumeration of the documents as specified in the demands of them made by the officers of the United States before resort was had to any measure of rigor for extorting them, proves that they were indispensable for the establishment of public right or for the security of private property. To Spain not one of those documents could after the transfer of the provinces be of the slightest interest or utility. To the United States they were all important. If the governor and secretary had so little understood their duty to the public rights of their country, committed to their charge, as to have suffered the removal of records essential to guard the interests of the nation against the insatiate greediness and fraudulent devices of land speculators, they had yet a sacred duty to perform to the people of the country, by retaining the common vouchers of their estates. What individual would have been secure in the tenure of his land, in the evidences of his debts, or in the very shelter over his head, if Col. Callava could have carried to Cuba his own judgments in favor of the Vidals, because their father, when alive, had been an auditor of war; and if Don Juan de Entealgo could have transported to the same island all the title deeds of East Florida, because he had bought his office of recorder at public auction?

The delays [and evasions][1] of the Captain General of Cuba, with regard to the fulfilment of the royal order transmitted to him by Col. Forbes, were so extraordinary, and upon any just principle so unaccountable, that the minister of the United States in Spain was by letters from this Department, of 13 and 16 June last, instructed, upon his return to Madrid, to represent the same to your government, and to request new and peremptory orders to that officer for the delivery of the archives in his possession, conformably to the stipula-

[1] Words in brackets were struck out.

tion of the treaty. The renewal of the order was declined upon the ground of entire confidence on the part of your government that the Captain General would, before it could be received, have completed the delivery of the archives and documents, as he had been commanded by the King. I regret to be obliged to state that this just expectation of his Catholic Majesty has not yet been fulfilled. Captain James Biddle, commander of the United States frigate *Macedonian*, has therefore been commissioned to repair to the Havanna, there to receive the documents and archives which Col. Forbes was obliged to leave, and which, it is hoped, the Captain General and Governor of Cuba will cause to be delivered without further delay.

I pray you, etc.

TO PIERRE DE POLETICA

Department of State,
Washington, 24 April, 1822.

Sir:

Your letter of the 2d instant having stated that you are not authorized to continue the discussion to which it refers, I am directed by the President of the United States to abstain from entering further upon the examination of the grounds upon which the edict of the Emperor, communicated by you, is defended, as not incompatible with the rights of this nation and its citizens.

But previous to your departure, the President has thought it due to the importance which he considers inherent in the subject, to the friendly relations which have uninterruptedly subsisted between the United States and the imperial government, to the high consideration and regard entertained in

this country for his Imperial Majesty, the Emperor Alexander, and to those dispositions of conciliation and good will which you have ever manifested towards the United States, to request that on returning to St. Petersburg you would in the most explicit manner make known to the imperial government at once the earnestness of the desire of the President, in unison with the universal sentiment of this nation, that the good understanding between our governments may continue with unabating cordiality, and the impossibility that these United States should acquiesce either in the interdiction of their lawfully navigating merchant vessels to approach within one hundred Italian miles of the shores of an open sea, or in the disturbance of their citizens in the prosecution of their intercourse with the nations of this continent beyond the 51st degree of north latitude, in regions where Russia has never before this edict asserted exclusive jurisdiction.

And I am instructed to repeat the assurance that the government of the United States will at all times be prepared to render justice upon any specific and well founded cause of complaint which may be adduced against its citizens, and that however inadequate the nature of its institutions may be to restrain its citizens from the exercise of their industry, as sanctioned by the laws of their country and of nations, no government upon earth is more competent to all the purposes of restraint or of punishment, upon that enterprise which, by transgressing those laws, would usurp upon the rights of others.

I avail myself, etc.

TO THE CHEVALIER AMADO GREHON [1]

DEPARTMENT OF STATE,
WASHINGTON, 30 April, 1822.

SIR:

Your letter of the first inst. has been submitted to the consideration of the President of the United States; by whom I am directed to assure you of the great satisfaction with which he has received the friendly declaration of the Portuguese government towards the United States; and the disposition manifested by them to promote the mutual interests and the amicable intercourse between the two countries by a treaty founded upon principles favorable to the commercial relations and industry of both. The President desires that you would in return make known to your government the sentiments of friendly reciprocity which animate the government of the United States towards Portugal, and the earnest wish of the President that the relations of the United States with that nation may continue on terms of the most entire cordiality.

I am at the same time directed to state that the proposition of the Chevalier Correa de Serra, in his note of the 16th of July, 1820, for the appointment of commissaries, chosen by both governments, to arrange indemnities claimed by Portuguese citizens for damages stated by them to have been sustained by reason of piracies supported by the capital and means of citizens of the United States, cannot be acceded to.

It is a principle well known and well understood, that no nation is responsible to another for the acts of its citizens, committed without its jurisdiction, and out of the reach of its control. Of the numerous piracies which have, within

[1] Chargé d'affaires.

these few years, annoyed the commerce of every maritime nation, a much greater number have been committed by the subjects of other powers than by citizens of the United States. The lawful commerce of the United States themselves has suffered by these depredations, perhaps more than that of Portugal. When brought within the jurisdiction of the United States the pirates have been punished by their laws and restitution has been made to its owners of property captured by them. Should any citizen of the United States, guilty of piracy, be captured by the Portuguese government, the United States will in no wise interfere to screen them from punishment.

The citizens of the United States are amenable also to the tribunals of their own country, as the people of Portugal are to theirs, for any wrong done by them to the subjects of other nations. For acts of so aggravated a nature as piracy, the authority of the government of the United States itself is not competent to withdraw them from the jurisdiction of their natural judges, or to subject them to a trial consisting partly of foreigners, and without the intervention of a jury. These principles of protection and security to individual rights are doubtless well understood, and will be duly appreciated in Portugal, under the liberal system of government now established in her own dominions.

The laws and the tribunals of the United States are adequate to the punishment of their citizens who may be concerned in committing unlawful depredations upon foreigners on the high seas; at least to the same extent as the laws and tribunals of other nations. The legislation of the United States upon this subject was even rendered more severe and effectual for the suppression of such offences, during the residence here of the Chevalier Correa de Serra, and justice, conformable to the established principles of the

laws of nations, has always been rendered by the courts of the United States to those Portuguese subjects whose property, after capture by pirates or privateers, has been brought within the jurisdiction of this nation. It will continue to be so rendered in all cases which may occur hereafter.

Of the advantages to the commerce of the United States in the four quarters of the world which it may be in the power of the Portuguese government to offer, it would be acceptable to receive a more particular specification than is contained in your letter. The government of the United States would then be able to judge of their value, and of the consideration with which they may be returned. It is not perfectly understood *who* are meant in your note by the "common enemies of their industry and their independence;" and I am directed to ask of you a precise explanation of that expression. The government of the United States while willing cheerfully to meet and reciprocate any commercial arrangement with Portugal, propitious to the interest of both nations, will not solicit, and cannot grant, any exclusive favors, to the prejudice of any other power whatsoever.

This principle, which has long been fundamental to the commercial policy of the United States, furnishes a reply to the latter part of your letter, which, in the case of a non-compliance with proposals which, as I have informed you, cannot be accepted, threatens reprisals upon the United States, by granting to their rival powers advantages in commerce, which you allege your government is disposed to give the United States, on condition of what you call indemnity for the past and security for the future.

The government of the United States knows that there is nothing and has been nothing in the relations between them and Portugal which by the laws and usages of civilized na-

tions could justify reprisals of any kind, by the latter against the United States. And as I have assured you that they desire no exclusive favors to the detriment of others, so they are fully persuaded that upon further advisement your government will perceive that they cannot grant commercial favors to any other nation to the detriment of the United States, without injuring their own subjects more than the people of this Union. Such it is believed would be the result of any experiment of reprisals by granting exclusive favors to one nation, with the view to damage another. The party granting exclusive favors is the party most severely punished.

Far more agreeable will it be to the government of the United States to reciprocate as heretofore with that of Portugal, offices of kindness and good will, and to promote the friendly intercourse between the two nations, by a multiplication of good offices, and of all the sources by which the interests of both may be advanced.

I pray you, etc.

TO ROBERT WALSH [1]

Private. WASHINGTON, 12 May, 1822.

DEAR SIR:

In the *National Gazette* of Friday the 10th instant is published a letter from Jonathan Russell to the Secretary of

[1] The publication through Congress by Jonathan Russell, one of the United States commissioners to negotiate the treaty of Ghent in 1814, of a private dispatch prepared and sent by Russell to the Secretary of State from Paris, February 11, 1815, precipitated a controversy between Russell and Adams which put an end to the public career of the former. His intention in securing the publication was clearly to destroy any prospect Adams might have of the Presidency, and he wished to support the ambitions of Clay. Not finding the original dispatch in the Department of State, Russell used his rough draft, making some alterations in the language.

State dated Paris, 11 February, 1815, with an editorial article *vouching for the exactness of the copy.*[1]

I have to apprise you that it is NOT an exact copy of the letter received from Mr. Russell by Mr. Monroe and now deposited in the Department of State. It differs from it among other things in these particulars:

The letter received by Mr. Monroe is marked at the top "Private," which word is omitted in the letter published in the *National Gazette.*

In the last column of the first page of the publication in the *National Gazette*, at the eighteenth line from the bottom are the words, "we directly violated our instructions and". These words are not in the letter written at Paris by Mr. Russell and received by Mr. Monroe.

In the 43rd line of the second column of the second page of the *National Gazette* publication are the words "we could"; instead of which the words in the letter are "I can."

As it is probable this paper will be extensively republished from the *National Gazette* with the voucher for the authenticity of the copy, I give you the notice that you may rectify the errors of the copy in such manner as you may think justice to require. Having the most undoubting confidence that you had satisfactory reasons for believing the copy furnished you to be correct, I prefer giving you this pri-

Adams recognized at once that the paper must have been modified, and the discovery of the original document in the private papers of Monroe confirmed his doubts. A collation of the two dispatches proved how far Russell had dressed his words, and his subsequent attempt to explain deprived him of public sympathy and placed him in a most awkward position. He sought aid from Clay, but received none, and never regained the confidence of his associates. The incident is quite fully given in the *Memoirs*, and led to the publication by Adams of *The Duplicate Letters, the Fisheries and the Mississippi* (1822). The letters now printed show the intense feeling aroused in Adams by the attack on his public character, and the feeling akin to pity for his antagonist.

[1] Included in Adams, *Duplicate Letters*, 114.

vate notice that it is not so to any other mode of making it known.

A copy of the congressional document containing a true copy both of the original and duplicate of Mr. Russell's letter shall be sent to you as soon as it shall have been printed. A comparison of the original letter as it will there appear, with the publication in the *National Gazette* of the 10th, will enable you to notify in such manner as you may judge suitable to the occasion the errors of the latter.[1]

I am, etc.

TO ROBERT WALSH

WASHINGTON, 20 May, 1822.

DEAR SIR:

A printed copy of the documents accompanying the President's message to the House of Representatives of the 7th instant is now transmitted to you, and with it I send you one of the very printed copies of the message from President Madison to Congress of 13th October, 1814, which were transmitted by Mr. Monroe to the commissioners at Ghent with his letter of 19th October, 1814, and received by them on the 24th November of that year. You will see that the paragraph of the instructions of 15th April, 1813, which in the *National Gazette* of the 10th figures with so many italics, connected with the falsification of the *copy* of the letter pointed out in mine of the 13th instant to you, containing

[1] In transmitting to his government a copy of the documents Stratford Canning wrote: "It is generally supposed that Mr. Russell's communication was called for at so late a period for no other view but that of discrediting Mr. Adams as a supposed candidate for the Presidency. It appears, however, that his assailant, if such Mr. Russell may be considered, is likely to have most reason to regret the controversy, which has excited in no small degree the attention of the public!" Ms.

the interpolated charge against the majority of the mission of *direct and express violation of instructions*, is not in this pamphlet, and the motives for its omission, because it was cancelled by the authority expressly given in the instruction of most recent date to conclude a treaty upon the basis of the *status ante bellum*.

You will see also that the falsification of the duplicate delivered at the Department of State was much more considerable than that of the copy furnished for the *National Gazette*, but contains the same newly fabricated charge of violated instructions, which was not in the original letter.

I have not the most distant suspicion that you intended to take side against the majority of the Ghent mission, or individually against me, in the publication of the paper furnished you as a copy of Mr. Russell's letter, or in the approbation of his doctrines and justification of his conduct in first writing the letter expressed in the editorial remarks upon it. You took the paper as you received it for a correct exposition of facts and a fair statement of arguments which had been used by the minority of the mission. And when you remarked that such a procedure as that of writing the letter was not unusual, and that it did not follow because it was private, it was therefore secret, you were certainly not aware that it was secret as well as private; that the whole letter was a mass of misrepresentations, and that although written while the writer was in daily intercourse with the majority of the mission, he never lisped to them any intention of writing it.

There is no man who knows not all the real transactions of that time, the whole secret history of the mission, who can know how many ties of honor, of friendship, and of truth, were shivered in the writing of that letter of 11 February, 1815, even as it was there really written.

A very correct estimate however can be made of the heart whence it issued from the bare fact that when, seven years later, volunteering to produce in the face of Congress and the nation a *copy* of that shameless libel upon his *most respected colleagues*, he finds it not deeply charged enough with crimination against them, and vamping up a gross aggravation of *violated instructions*, cites for proof a paragraph which had been formally and explicitly cancelled before the discussion pretended to have been forbidden by them.

But what concerns me much more than mistakes as to the character of the transaction with reference to morals is, the ground you have taken in support of his doctrine that the treaty of 1783 was abrogated by the war. He would not have dared to take at Ghent the ground on this point that he takes in his letter. I am sure my principle is right and have carried it triumphantly through the subsequent negotiations with Great Britain since the peace. I may and fear I shall fail of convincing you, but I pray you not to maintain the opposite principle again till you shall have seen all the documents of the negotiations that led to the conclusion of the convention of 20 October, 1818.

I shall write you about the *navigation of the Mississippi* hereafter.

Send me back this letter after reading it. I will if you wish return it to you again. But I want it to have a copy taken of it, which I could not do without losing this mail.[1]

Yours, etc.

[1] On May 25 Walsh printed in the *National Gazette* a reply by Adams to Russell's communication, with editorial comment. Extracts from the editorial are in *Duplicate Letters*, 118.

TO JOSEPH HOPKINSON

WASHINGTON, 28th May, 1822.

MY DEAR SIR:

I thank you heartily for your cheering voice in the midst of my trial, a trial by God and my country, upon a charge of treachery to her interests and to my duty — a charge by an associate in the trust and by his own showing a participator in the offence. To such a charge in all the bitterness and all the violence of party conflicts I had never before been subjected, and when from the bottom of my soul I believed that the very gist of the charge was the most important service I had ever rendered to my country, it was too much for my patience to endure. I thought it a point of obligation to the public morals, not only to vindicate myself and my colleagues, but to put my assailant upon the defensive. We shall see what hand he will make of it.

As for me, since this fashion of Secretary hunting has set in I know not what other charges await me, nor when they will be brought forth, nor how they will be managed; but being devotionally inclined I pray God that all my accusers may have as little foundation as he had, and that in the development of their projects they may be guided by that same retributive spirit which brought him with his duplicate in the fancied security that the original was irretrievably lost. . . .

Being with sincere respect, etc.

TO ROBERT WALSH

WASHINGTON, 30th May, 1822.

DEAR SIR:

I return you my letter of the 20th which, as containing the expression of my sentiments and feelings, I have no motive for withholding from you.

The publication of a third edition of Mr. Russell's letter in the *National Gazette* of the 10th instant is an incident of no inconsiderable interest in the history of this transaction.

In your favor of the 15th instant you mention having received it from Mr. R. M. Patterson, an intimate friend of his. As I understand your letter it was through that gentleman from Mr. Russell himself.

Mr. Russell left this city for Philadelphia on the 4th or 5th of this month. I conclude it was after that, and on his passage through, that he furnished the copy for publication in the *National Gazette*. If I am correct in this conjecture, I will thank you to confirm it. The two letters of Mr. Russell of 25th December, 1814, and 11th February, 1815, were a part of the NEGOTIATIONS of Ghent with which I had been entirely unacquainted, until upon the first call [1] of Dr. Floyd [2] for the residue of the Ghent treaty documents. I, on examining the files of the Department to answer the call, found the short letter of 25th December. Dr. Floyd's call was for the correspondence which led to the conclusion of the treaty of Ghent. It did not therefore strictly include this letter written *after* the signature of the treaty. But as an improper inference might have been drawn from the withholding of the letter, I asked Mr. Russell himself whether he

[1] January 16, 1822.

[2] John Floyd (1770–1837).

would choose that it should be communicated to the House or not. He first said that it was a private letter which he did not wish should be made public, but upon further reflection he said he would be glad to see it. He expressed also the wish to see the other documents of the negotiation and the official records of the instructions to the Commissioners at Ghent, in all which he was indulged to the extent of his wishes. After having made this examination he told me there was a subsequent letter which he had written from Paris to the Secretary of State, as promised in the letter of 25th December, and which he wished might be also communicated to the House. Repeated searches were made on the files of the Department for this letter, but it was not found. I had never heard of the existence of this letter before he thus told me of it himself. The answer to Mr. Floyd's call for the Ghent papers was delayed a week or ten days for repeated searches to find the letter. It became at last necessary to answer the call of the House, and the papers were sent including the short letter of 25th December. On the 19th of April the House adopted Dr. Floyd's second call, which was specifical for the letter promised in that of 25 December. In the editorial article of the *National Gazette* of the 10th it is said that you learn from good authority that Mr. Russell *had no share in the call for his private letter.* Mr. Daniel Brent states in writing that Mr. Russell told him that Dr. Floyd's call for the private letter had been made at his, Russell's, suggestion. The call was not made until he was ready to produce the letter himself. The resolution passed the house on the 19th of April, Friday, and on Monday the 22nd he delivered the duplicate at the Department. He had sent to Mendon [1] for the copy of his real letter in the interval between the first and second calls, and after having

[1] Massachusetts, his place of residence.

learnt that the letter was not to be found at the Department. The moment I read this duplicate I was convinced that certain parts of it, and especially the prophetic paragraph,[1] had not been written in February, 1815, at Paris. Yet that he should have falsified his own letter to produce it in the face of Congress and of the nation appeared to me so shocking a supposition that I scarcely dared to trust myself in believing it. Knowing indeed as I did what had actually passed at Ghent, I saw immediately that the whole letter was a fable; yet the variation of the copy seemed to require a degree of assurance hardly conceivable against the bare possibility that the original might yet be found.

From that moment too I saw that a public controversy was unavoidable, and that its proper scene for me was the hall of the House of Representatives, the spot where by this letter the majority of the Ghent mission were thus to be arraigned by one of their own associates in the face of the whole nation. I took the letter to the President, requested him attentively to read it, and then to have search made among his private papers to see if the original could be found. The search was accordingly made and it was found. My own wish thenceforward was that both the letters should be communicated to the House, together with my remarks upon them. The President, who of course wished to take no part in the controversy, preferred stating the circumstances to the House leaving them to determine whether to repeat the call or not. The last call was made at my desire and was opposed by Dr. Floyd and other friends of Mr. Russell. He himself in the meantime had left the city, but not without having an explanation from me face to face of the opinions which I entertained of his letters, in which I pointed out to him the differences between them, and showed him

[1] *Duplicate Letters*, 91.

in the records of the Department the copy of the letter of instruction of 19th October, 1814, which substantially cancelled the paragraph of the instructions of 15th April, 1813, of which he has made such notable use in the duplicate and in the *National Gazette* of the 10th instant.

I have given you this detail that you may be fully aware not only of the real nature of the transaction, but of the degree in which he succeeded to make the *National Gazette* instrumental to his purposes in the production of this letter. The charge of violated instructions and the citation of the cancelled paragraph were what he knew would tell in the western country more than all the rest of the letter, and by the publication in the *National Gazette* he hoped to forestall public opinion where the refutation might never reach or reach too late for operation. With the notice that you have taken of the variation between the original and the *Gazette* copy I am satisfied; nor is it my wish that you should at any time further manifest any opinion favorable to me or otherwise to him in connection with this affair. Nor shall I inquire what your sentiment is with regard to his candor towards yourself, in making the *National Gazette* the vehicle by deception practiced upon you of an imposture, deliberately planned for the purpose of devoting me to ruin in the good opinion of my country.

You tell me in your letter of the 22nd instant that the country will be satisfied. I hope it will. I have said and I repeat that I would be content to leave the cause to the verdict of western intelligence. But prejudice will not be satisfied, and there is no rag so shabby but jealousy will take it for a handkerchief.

As to the navigation of the Mississippi, subject to the restrictions and limitations expressly prescribed in our proposal, I certainly thought little of the objections started

against it. These objections were all speculative and were contradicted by all former experience. But after the proposal had been made and rejected distinctly on the ground that it offered substantially *nothing*, I certainly did not dream that a member of the mission would dare to represent it as intended to give free and unlimited access to British traders and smugglers, and as holding a scourge over the unoffending citizens of the west. The objections to allowing a right of navigating the Mississippi thus limited seem to me a mere mystification. It is the mere right of travelling a highway. By the treaties of Vienna in 1815 the right of navigating all the rivers of Germany is stipulated for all mankind. The people of the United States enjoy it as much as the people of Würtemberg and Bavaria. What should you think if Hardenberg, who was one of the signers of these treaties, should now come out with a manifesto against Metternich, who also signed them, for having opened a Pandora's box of democracy in Germany by stipulating the right of navigating the German rivers to the Republicans of the United States?

Persecution makes a man an egotist in spite of himself and egotism always ends by making itself tedious. I say no more for the present, but I do not promise that I shall write to you upon this subject no more. What I have written is only for your personal information and to obtain that of the time when you received the copy published in the *National Gazette* on the 10th.

I remain, etc.

TO CHARLES JARED INGERSOLL

Private. WASHINGTON, 3 June, 1822.

DEAR SIR:

It was from you that I received the first intimation of the subfluvial torpedo which was from the turbid bottom of the Mississippi to blow me up. But I had no suspicion then that Mr. Jonathan Russell had volunteered to be chief engineer for the explosion. If that ingenious person should suffer a little by the operation of his own machine, he must seek an equivalent for it wherever it may be found.

The only proper question in this case affecting the character of the majority of the Ghent mission is not what was the comparative value of the Mississippi navigation and the fisheries, but what their instructions authorized and required them to do. And so conscious was the letter writer of this that when he came to bring forth his duplicate, he found it necessary to put a second charge into the gun and to accuse his colleagues of direct violation of instructions. To which and with admirable address he cites an instruction which had been revoked and cancelled.

But suppose the question were of the comparative value of the two things. You say that much may be said on both sides. Certainly, much of truth on one side and much of imagination on the other. For set your prejudices aside, take our proposition as it was made, limited and restricted as it was, and I defy you to specify *any* value of which it could be to Great Britain and any injury that it could be to us. And so sensible of this too is the letter writer that from the very nullity of its value as it stood he takes ground to argue that we must be presumed to have intended to yield more than the article did in itself purport. And then giving

the range to his imagination, he makes a bear of a bush and charges his colleagues with having let the wild beast loose, and set him upon the *unoffending* people of the west. It was from necessity and not from choice that he resorted to this expedient. Of the real proposition he could have made nothing to excite suspicion or odium against his colleagues. He *then* treated their proposition as he *now* treats his own letter.

The truth is that our proposition was made to meet the British demand, and I venture to say there was not one member of the mission but was convinced the British government would immediately reject it. From the time that they gave up the claim to territory on the Mississippi they had no *interest* in the right to navigate the river. Of what possible use could it be to them clogged with the payment of duties upon the merchandise to be floated down upon it? Their only object was to try to get something for renouncing it. They rejected our proposal, because it offered them *nothing* and they plainly told us so. Since the peace they have given up all pretension to it for nothing.

I say therefore there was neither value to them nor inconvenience to us in the proposal that we made of allowing them to navigate the Mississippi. In our enjoyment of the right of fishing within their jurisdiction and curing fish upon their shores there was both value to us and inconvenience to them. The exclusion of our fishermen from competition with theirs would have been a double advantage to them. And from the indefinite manner in which they had notified the pretended forfeiture, and from the warning to our fishermen after the peace not to approach within sixty miles of the shores, I have no doubt their intention was to exclude us from the whole fishery. I ask you not to measure the *value* of this fishery to the nation either by the amount of

tonnage employed in it, or by the proportional profits that it yields to those who engage in it. No congressional document, no office-patched up tables of registered tons, fish quintals, bushels of salt, and dollars and cents, can give the measure of value which a North American patriot should set upon this fishery. It is in the first place the very best nursery of seamen in the world. It breeds a race of men enured to every hardship to whom danger and death are playthings, and who are content to sport with them for profits seldom exceeding a scanty subsistence. A race of men of whom while it may be emphatically said

> Their march is on the mountain wave,
> Their home is on the deep,

it must with equal truth be added that there breathe not throughout all the classes of our citizens men more devotedly attached to their country, men with hearts stouter to defend or warmer to bleed in her cause. I name Commodore Samuel Tucker,[1] to whom in the last stage of life Congress have lately granted a pension for services surpassed by none in the Revolutionary war, as one of that race of men and as a fair sample of them all. Now in the valuation of that interest which is to this race of men the breath of life, I cannot allow it to be estimated in dollars and cents, or consider it merely in the light of their separate and private interest. Mr. Russell's frosty panegyric upon them in his duplicate is as far from doing them justice, as that principle of spurious republicanism with which it concludes, that the interests of the few must be sacrificed to those of the many.[2] The just and lawful interests of none are to be sacrificed to those of the many. The interests of each and every one are

[1] (1747–1843.)
[2] *Duplicate Letters*, 87.

to be maintained and supported by the power of all. And if in cases of necessity they must sometimes be abandoned, it is not because the interests of the many must be *preferred* to them, but because they cannot all be maintained. But the interest of the fishermen in the fisheries is the smallest, incomparably the smallest part of their value. The interest of each fisherman is but the value of the fish he can catch and cure. The interest in the fisheries is all *national*, all belonging to the whole community, and most severely would the nation have felt it if they had been surrendered. You have seen in my remarks that the proposed article, or rather clause of an article, for restipulating the fisheries and the Mississippi navigation was not offered by me. It was offered by Mr. Gallatin. I assented to it with reluctance, not because I believed there was anything objectionable in it, but because it was objected to by Mr. Clay and might be unacceptable to the western country. My principle was that the fishing liberties were not forfeited by the war, and I was content to rest their defence upon the formal notification to the British government that we held and should adhere to this principle. But it is not a little remarkable that even the paragraph in which we did first assert this principle in our correspondence with the British plenipotentiaries was drawn up not by me but by Mr. Clay. He certainly did not tell us that he meant to word it in such a manner as would leave him afterwards at liberty individually to disavow it. I should have expressed it in a different manner, for I did surely believe and do still believe it sound. I accepted it however in the words of Mr. Clay and it effectually answered my purpose. It gave notice to the British government that we had not surrendered any part of the fishing rights or liberties, and that without any new stipulation we should still after the peace maintain our right to the

whole of them. The negotiations after the peace exhibit the whole argument on both sides as to the question of the abrogation of the treaty of 1783 and resulted in the compromise of the convention of 1818. By this all the valuable part of the fishing liberties, even within the exclusive jurisdiction of the British in its strictest sense, is secured to us forever, and that exclusive jurisdiction of itself in the places where we have renounced the liberty is limited to the distance of three marine miles from the shore.

Mr. Pickering's opinion of the remarks is the more gratifying to me for being barbed with reproach, as yours is doubly pleasing by its concurrence with his approbation and by the dissent from his censure.[1] I am at some loss to account for the tempest of critical animosity through which my 4th of July address is yet passing, for it is scarcely a month since a new pamphlet was published against it in New York.[2] My vanity takes some consolation in the singularity of the fact that a fourth of July address should be a *subject* of criticism nine months after it was delivered. . . .

I am, etc.

[1] "About ten days ago, I was at the same dinner table with Mr. Pickering (old Timothy) and Mr. Gaillard of the Senate. Mr. G., who knew the enmity borne to you by Mr. P., asked, with a waggish intention, what he thought of your controversy with Mr. Russell. Mr. P. replied with great earnestness: 'Sir, I regard Mr. Russell as a man fairly *done over*. Mr. Adams will be exalted in the estimation of New England by his Remarks, and ought to be exalted in any part of the world. He has nearly effaced with me the impression of his 4th July oration.' You are aware how much you sinned against the faith of the veteran federalist in the oration." *Walsh to John Quincy Adams*, June 3, 1822. Ms.

"The controversy between Adams and Russell has been most unwisely provoked by the latter; the triumph seems, in the opinion of every one, to be given to the former. No antecedent document has been more in favor of Mr. Adams' talents, and none will be more useful to him, tho' I do not see that his course is free from great discouragement." *Rufus King to Christopher Gore*, June 5, 1822. *Life and Correspondence of Rufus King*, VI. 474.

[2] *Remarks on the Address*, New York, 1822.

TO ROBERT WALSH

WASHINGTON, 8th June, 1822.

DEAR SIR:

Acquiescing entirely in the wish intimated in your favor of the 3rd instant I shall, until Mr. Russell's reply shall appear, consider as altogether confidential the facts communicated to Mr. Brent and me, concerning the manner in which the *triplicate* with its annotations and *various readings* obtained access to the *National Gazette*. Till then also I shall cheerfully wait for the information of the time when you received the copy for publication.

From whatever source the *false version* in the *Aurora* to which you allude did proceed, it is false in all its parts and infamously false in its insinuations. No part of the transaction is more base than the use of Mr. Bayard's name, as it has been used in the *Aurora* and in the *Franklin Gazette*. Mr. Bayard did *not* finally come over to the opinion of Mr. Clay and Mr. Russell, either with regard to the proposal for allowing the navigation of the Mississippi, or with regard to the permanency of all our rights and liberties under the treaty of 1783. If Russell dares under his name to assert that he did, you may set it down as an assertion upon a level with that "trust in God" in his duplicate penned in the very act of committing an imposture. The dark innuendo in the *Aurora* of a case said to have been hypothetically put by Mr. Bayard, of a barter of some advantage in the fur trade for pecuniary influence to promote views upon a high station, seems to me too ridiculous to deserve a denial. That Bayard ever expressed such a sentiment with reference to me I do not believe. But if he or any one else ever did it was utterly without foundation. There is no form in which

language could clothe such a suggestion but I would meet it with a direct denial.

The *Aurora* and the *Franklin Gazette* are equally intent in the face of the facts upon fixing exclusively upon me the proposal of the clause offering the navigation of the Mississippi for the fishing liberties. The proposal was not made by me but by Mr. Gallatin. Even the paragraph in our note of 10th November to the British Plenipotentiaries, which asserted the permanency of all the fishing rights and liberties from the peculiar character of the treaty of 1783 and the nature of the rights and liberties themselves, was drawn up not by me but by Mr. Clay.

You have doubtless remarked the effect upon the purport of a very great portion of Mr. Russell's letter produced by the substitution of the words "we could" in the duplicate and *Gazette* copies, for the words "I can" in the real letter. The real letter pretends to give information concerning the nature and value of the fisheries, the best that *he* could obtain. He gives it as knowledge of his own, without pretending that it ever had been communicated by him, or that it had ever been known to any other member of the mission at Ghent. The necessary import of the words "we could" is, that the nature and value of the fisheries had been thoroughly discussed by the mission; that we had taken pains to obtain information and that what he gives was the result of our inquiries. It is impossible to read the duplicate or the *Gazette* copy without receiving from it that impression. Now we neither had nor could obtain any particular information concerning the comparative value of the different portions of the fisheries, nor was their value ever a subject of discussion among us. If he had ever obtained such information as he deals out in his letter, he never imparted it to his colleagues; and if he had, two of them at least, Mr. Gallatin and

myself, would have known that it was misinformation. But neither of us had much positive knowledge of the subject. While the negotiations were pending I wrote to my father requesting of him such information as he possessed or could obtain concerning this interest. I received his answers after the conclusion of the peace in England. I now send you papers containing the information which was thus obtained, and was used in the negotiations subsequent to the peace with Great Britain. The letters from Mr. Lloyd, Mr. Keating (the friend to the fisheries) and Mr. Ignatius Sargent, will show you how little Russell knew of the subject or how grossly he misrepresented it. My dear father's letters will amuse you by their originality and point. The *seal* is the same which you will find on this packet, and was a device of his own which he had caused to be engraved at the time of the peace of 1783.[1] I add also a printed copy of the instructions to Mr. Gallatin and Mr. Rush for negotiating the convention of 20th October, 1818. All these papers are now communicated to you in special confidence for two reasons. First, because Mr. Russell has thought proper to make the *National Gazette* the medium of his attack against the majority of the Ghent mission before the public. I wish you therefore to be thoroughly possessed of the merits of the whole subject. And secondly, because if, as is very likely, this controversy should continue and spread, I have yet much to say to the nation concerning it. I shall remain strictly upon the defensive and obtrude nothing upon the public without necessity. My remarks have been charged with undue severity; judge you from these papers whether I have not dealt with him in mercy.

I ask of you to read the enclosed papers with undivided attention, and with particular regard to their chronological

[1] See p. 273, *infra*.

order as connected with the Ghent negotiations and with Mr. Russell's real letter from Paris. The newspaper essay signed "Richelieu" you will see was written in March, 1815, about a month after Russell's letter, and takes precisely the ground which I had taken at Ghent. I know not who was the author of it. Lloyd you will see was afraid of the effect of the British notification of forfeiture. He did not know of our counter notification, nor was it as you know ever made public till brought forth by Dr. Floyd's first call for the residue of the Ghent treaty papers.

The papers in the *Franklin Gazette* against my remarks consider our fishing rights on the Grand Bank and the open sea as resulting from *natural right* inseparable from our independence. Had this been the case we should have needed no article in the treaty of 1783 to secure it. But the whole fishery from the Banks of Newfoundland to the extremity of the coast of Labrador is an *appropriated* fishery, exclusively belonging till our revolution to the British and French nations. It was granted by the British sovereigns like all the territorial rights by their *charters*, which if Mr. Russell had known he might have saved himself all his profound research into rights by prescription. His doctrine that the king of England might have interdicted the rights of the colonists to the fisheries would not have been sound whig doctrine in 1775. The right was rigorously national, and in all the New England and Nova Soctia charters it was granted with an express reservation of a participation in it to *all British Subjects*. The Newfoundland fishery had been declared a free and unlicensed fishery by act of parliament as early as the reign of Edward 6th. The king could *grant* these rights by *charter*, but he could not take them away.

In committing to you the enclosed papers I must request

your very special care, after you shall have perused them, to send them back to me. If as I apprehend is possible this correspondence begins to grow oppressive to you, I will forbear pursuing it further.

I remain, etc.

TO ROBERT WALSH

WASHINGTON, 21st June, 1822.

DEAR SIR:

Your letters of the 11th and 16th instants have been duly received and with the latter the budget which I had sent you relating to the fisheries. I am duly sensible to your obliging offer of communicating to the public any observations which may be necessary and appropriate to my defence against that war of defamation which, according to your friends of the *Richmond Enquirer*, did not commence till I was *hors de combat.* So that it seems my ci-devant Ghent colleague was employed to stab me three or four times after I was dead, that he might claim the reward for having despatched me himself.

When I see Mr. Jefferson, with the snows of fourscore winters upon his head and with all the claims of a life devoted to the service of his country and of mankind to the veneration of all, hunted in the face of evidence as a fraudulent peculator of a sum less than 1200 dollars by "a native of Virginia" [1] with a malignity and pertinacity equal to but not surpassing the address and cunning of the accusation, I am willing to forget the charges equally false and equally base of the same native of Virginia against myself. That his charges against me are all as false as that against Mr. Jeffer-

[1] See *Writings of Jefferson* (Ford), X. 208.

son I affirm, and have proved to the satisfaction of the Committee of Congress upon the expenditures in the Department of State. Their report was I believe published in the *National Gazette*, and I now mention it, because by your naming the native of Virginia I thought you might perhaps have some reference to his charges against me.

The *Richmond Enquirer* is sensitive enough (not too much so) to the baseness of the denunciation of Mr. Jefferson by "a native of Virginia;" but when a "Native of Massachusetts" with equal malice and with deeper depravity falls foul of me, and compels me to retort upon him in self-defence, the *Enquirer* is ready to shout for joy at the sight of two *Massachusetts men* in conflict with each other, and delights in the anticipation that they will *both* lose character by the controversy — an observation which might with as much propriety be made by the winner and the loser of what the governor of Virginia calls "Property acquired by crime" upon the highway.

The *Richmond Enquirer* does not approve of me for next President for the United States. This declaration is fair and candid, nor have I a word to say in objection to it; but when in setting forth my sins it charges me with a proposal to let the British into the heart of our country, it is neither fair, nor candid, nor true. And as it considered me *hors de combat* for the Presidency even before the last kick which is to prove my *coup de grâce*, to join in the slander upon me was as needless as it was ungenerous. If the editors of the *Richmond Enquirer* [1] and of a dozen other newspapers in the United States would sincerely and honestly consider me as *hors de combat*, they would save themselves much of the labor they are yet to undergo in flirting from their scavenger carts mud in my face to finish me.

[1] Thomas Ritchie and Gooch.

Situated as I am I well know how hopeless a task it would be to attempt the refutation of the falsehoods which are constantly circulating against me in the newspapers. For every amputated head of the hydra there will always be two new ones to shoot up. Slander is the first and most efficacious of electioneering engines among us, but newspaper slander is not that which has operated or will operate most unfavorably to me. An undercurrent of calumny has been flowing and will continue to flow in every direction throughout the Union, nothing of which appears in the newspapers, but it goes in whispers and in private correspondence. It is a branch of the caucusing system, and it adapts its movements to the feelings and prejudices of the different sections of the country. It has a story for Pittsburg and a story for Portland, a misrepresentation for Milledgeville and a lie for Lexington. I have notice of all this undermining from every quarter of the Union, and in several instances from persons total strangers to me, in others by anonymous letters. I have no countermining at work to blast the reputation of others and seldom attempt even to defend my own. I make no *bargains*. I listen to no overtures for *coalition*. I give no money. I push for no appointments of canvassing partisans to office. This utter inability to support my own cause passes among the caucus mongers for simplicity approaching to idiotism. I know it has been an avowed motive to some and a successful argument to others for resorting to other standards, and during the late session of Congress there was so animated a recruiting service and so general an enlistment, that Duane and Ritchie had good reason for concluding that I, who had neither Captain Plume nor Sergeant Kite to recruit for me, was *hors de combat*.

Enough and too much of myself. My great concern is for *principles*. You are not yet convinced that the American

people after the rupture with the mother country could be said to have the right to fish within the limits of her jurisdiction, nor that the last war did not abrogate the treaty of 1783. Yet the very extract you have had the goodness to send me of Lord Loughborough's speech [1] proves the light in which it was viewed by all parties at that time. As much as the seal with the motto "piscemur, venemur UT OLIM."

At the time of the Declaration of Independence the people of the United States enjoyed, in common with the rest of the British nation of which they had till then formed a part, and under certain stipulated participations in it enjoyed by France, the Newfoundland, Nova Scotia, Gulph of St. Lawrence, and Labrador fisheries, with the appurtenant rights of drying and curing fish upon certain unsettled shores which were necessary for the exercise of a part of the right of fishing. For the purpose of the argument the whole must be considered, as it is in fact, *one* fishery. It was all an appropriated fishery belonging exclusively to the British nation, with the reserve of a limited participation in it enjoyed by the French.

By the law of nature the people of the United States had a *peculiar* right to *participate* in this fishery, because a part of it was upon a part of their own coast, and the whole of it in their immediate vicinity. But whatever portion of the right they derived from the law of nature it was not derived from the Declaration of Independence but from their locality. They had always enjoyed it before and continued to enjoy it after that event. The Declaration of Independence neither gave nor took it away. The Spanish colonies which have recently declared their independence have no more right to it than Spain herself.

But the people of the United States had enjoyed it as a

[1] Quoted in *Duplicate Letters*, 189.

part of the property of the British nation in common with the rest of that nation. This is the portion of right which after the Declaration of Independence they could no longer claim *as British subjects*. But in the exchanging by the Declaration of Independence the rights of British subjects for those of a distinct and separate sovereignty, they maintained the right of participation in this fishery as a possession in common with the British nation as it had been enjoyed before. The right to the fishery was like the right to the writ of habeas corpus, a British right which they neither forfeited nor surrendered by the Declaration of Independence.

This principle they effectually maintained at the negotiation of the peace of 1782, and by the third article of the treaty obtained the *acknowledgment* of it by Great Britain. It was only by that same treaty that the remaining British colonies in America became to the people of the United States a foreign jurisdiction, and in the same act by which they recognized this they reserved to themselves the fishing rights and liberties which they had possessed while the jurisdiction was the same as their own, and to this principle Great Britain *assented* by the treaty. Lord Loughborough's objection to the article is on that very account, and shows that it was universally so understood.

Consider now that the jurisdiction became foreign and the fishing liberties within it were reserved by one and the same act. The boundary line severed the jurisdictions which had been one in two. The third article acknowledged the *continuance* of the American fishing rights and liberties in the places which had been within the common jurisdiction, but were thenceforth to be within the jurisdiction exclusively British. Then look at Vattel, Book 1st, Ch. 23, §§ 279–287, especially the latter part of this last section,[1] and you have

[1] *Duplicate Letters*, 188.

my reasons for considering our fishing liberties within the British jurisdiction, as so *acknowledged* by Great Britain, that we could never forfeit nor she exclude us from them but by conquest or a new compact.

If you will attentively read the third article of the preliminaries of 30 November, 1782, which is in the same words as the third article of the definitive treaty of 1783, you will see that there is no distinctive mark of places within or without the *exclusive* jurisdiction of Great Britain. There is nothing said of *exclusive* jurisdiction. It agrees

> That the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank and on all the other banks of Newfoundland, also in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries *used at any time heretofore to fish.*
>
> And also that the inhabitants of the United States shall *have liberty* to take fish of every kind on such part of the *coast* of Newfoundland as British fishermen shall use (but not to dry or cure the same on that island), and also on the *coasts, bays and creeks* of all other of his Britannic Majesty's dominions in America. And that the American fishermen shall have liberty to dry and cure fish in any of the UNSETTLED bays, harbors and creeks of Nova Scotia, Magdalen Islands and Labrador so long as the same shall remain unsettled, but so soon as the same or either of them shall be settled it shall not be lawful for the said fishermen to *dry* or *cure* fish at such settlement without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground.

Now observe that the *whole* of the fishing *rights* and *liberties* thus described in this article were at the time of our Declaration of Independence *within the exclusive jurisdiction* of Great Britain for all the purposes of the fisheries. The

Grand Bank was, for this purpose, just as much British property as the desert rocks of Nova Scotia, Magdalen Islands, and Labrador. It had been so recognized by France in the treaties of Utrecht and of Paris in 1763, and by Spain in the same treaties. Spain in the latter treaty had formally renounced all pretensions of a right to fish there, and no other nation had ever pretended to the right, not even those pre-eminent fishermen the Dutch. Where do you mean to draw the line of your argument? What part of the article do you mean to contend was within and what part without the exclusive British jurisdiction? What part of it was and what part was not according to your view abrogated by the war of 1812?

If you *can* draw the line, at least the British plenipotentiaries at Ghent, when they notified us that Great Britain did not intend to *grant* again the right to fish within *exclusive* British jurisdiction, took special care not to draw it. They said they did not mean to deny us the right of fishing in the open seas *as all other nations might;* and what, think you, that would have meant if we had agreed that the treaty of 1783 was abrogated by the war? Why, it would have meant the whole fishery in the South Seas. If we had surrendered the *liberty* of the third article of the treaty, tell me what we should have left ourselves to say in defence of the *right* recognized by the same article. That we claimed it as an independent nation? What? With the treaties of Utrecht and of Paris before us; with Louis the 14th submitting to an exclusion of thirty leagues from the Isle of Sable; with Spain renouncing all pretension to the right of fishing even upon the Grand Bank? Is it with Great Britain that we could have maintained it as a common right of all nations, after admitting that our peculiar right, as recognized by herself in the treaty of 1783, was abrogated by the war? She

would have told us that that question had been settled centuries ago. That no part of the Newfoundland fisheries was common to all nations. She would have cited in proof of this not only her own statesmen and jurists; not only the treaties of Utrecht and Paris; but the lawyers and historians of France — Valin, who with reference to this very fishery alleges *soundings* as the limit of exclusive jurisdiction for a fishery (*Commentaire sur l'ordonnance de la Marine*, Vol. II, pp. 668 and 779) and Raynal, who, while asserting that the fishery on the Grand Bank by natural right *ought* to have been common to all mankind, admits that it had been appropriated exclusively to France and Great Britain. To all this what could we have replied? That we would fight for it? Then why not fight for the whole? And why surrender the very strongest of our title deeds, ancient possession and explicit acknowledgment?

And what difference was there in the nature of the thing between the exclusive jurisdiction over a waste of waters on the Grand Bank, and over a wilderness of rocks on the desolate coasts of Labrador? Our liberty was to take, dry, and *cure* fish in *unsettled* bays, harbors, and creeks. It was to have the transient occasional use of rocks and sand banks for the only purpose to which they could be applied. The huntsman of the ocean pursued his prey into these bays, and harbors, and creeks, and there they could no longer escape him. But he was yet as far from the habitations of men as he had been upon the Grand Bank. It was not a populous vicinage, where laws, and institutions, and magistracies existed, with which the intrusion of foreigners must be forbidden to preserve unsullied their dignity and their authority unimpaired. The jurisdiction was but a word. There was nothing for *territorial* jurisdiction to operate upon — no inhabitants, no government, nothing but fisher-

men and fish. The moment a settlement took place the use of the shores was to cease, unless by agreement with the inhabitants. What mystical sanctity then was there in these bays, creeks, and harbors, or on these barren rocks and desert shores, which could make them liable to the narrow limits and subject to the common interdictions of a populous settlement? Why should they be secluded from the use of American fishermen more than the open seas? Why made more inaccessible to the only useful purposes that they could subserve than the billows of the Grand Bank? They had none of the attributes of *exclusive* property but for the purposes of fishery, and the Grand Bank had the same. If then the treaty of 1783 was abrogated by the War of 1812 as to the *liberties* specified in the third article, it was equally abrogated for the *rights*. If, as Mr. Russell contends, we were after signing the peace of Ghent bereft of all fair claims to the one, we were equally stript of all just pretension to the other. And this seems to be your opinion, since you consider the whole treaty of 1783 as having been abrogated by the war.

Let us admit for the sake of argument that it was. You do not understand that the rights which Great Britain acknowledged by that treaty as belonging to us were abrogated with it. Her *acknowledgment* of our independence was not abrogated. I speak not of our independence as maintained and declared by ourselves, but of her acknowledgment of it. She could not revoke that. Whatever we may have been to ourselves and to others, she at least had considered us as her subjects, and it was only by virtue of her own acknowledgment in that treaty that she was bound to consider us as an independent nation. She had waged a war of seven years against us as rebels after our Declaration of Independence. If the treaty of 1783 was abrogated by the War of 1812, why

could she not again claim our allegiance and treat us as rebels? If you insist that our independence rested even as to Great Britain exclusively upon our own declaration, what do you make of the boundary line which existed and could exist only by the treaty? Why could not the British plenipotentiaries have told us that their government would not grant us without an equivalent the same boundary as they had in 1782? If then our independence and our boundary, which as to the obligation of Great Britain to recognize them existed only by the treaties of 1782 and 1783, were not impaired by the War of 1812, upon what principles could she revoke either the *rights* or the *liberties* in the fisheries which she had in like manner acknowledged as belonging to us by the third article of each of these treaties? They were all acknowledgments of pre-existing possessions, and the liberties were no more revocable at the will of Great Britain nor more forfeitable by mere war than the rights. They were recoverable for her only by *conquest*, and that could be consummated only by our *renunciation* expressed in the treaty of peace, or implied by our assent to her insidious assumption that it had been effected by the war alone.

This argument is susceptible of much more development, with which I will not now trouble you; but as I mean upon this question to make a conquest of you I must call in auxiliaries and they shall be British statesmen. You have furnished me with one yourself in Lord Loughborough. If you have access to Hansard's *Parliamentary History*, look into the debate in the House of Lords upon the peace of Amiens. See what Lord Auckland and the Chancellor say on the ministerial, and Lord Carnarvon on the opposite side of the House — pages 704–5–6, 714–5 and 727.[1] If all this is not sufficient to convert you to repentance, I must turn you

[1] *Duplicate Letters*, 195.

over to Frederick of Prussia and Dr. Franklin, together with Mr. Jefferson and my father. See at the close of the 24th article of our first treaty with Prussia [1] with what contempt those sound political moralists speak of the pretence that war dissolves all treaties.

This letter is but the *membra disjecta poetae*, the mere chaos of an argument, without order or method. I wait to see what Mr. Russell will make of his argument in his reply.[2] If he maintains his point with plausibility, I shall perhaps send you hereafter the paper signed "Richelieu" for republication as you have kindly offered. And extracts from Mr. Lloyd's letter, for which however I must first obtain his consent. My English authorities from the debate on the Peace of Amiens are furnished me by another learned and ingenious friend, also a Senator of the United States.

Very faithfully yours.

TO PETER PAUL FRANCIS DEGRAND

WASHINGTON, 5th July, 1822.

DEAR SIR:

I cannot refrain from thanking you for your letter of the 28th, which I esteem as one of the most precious proofs of your friendship for it tells me of my faults.

I will treat Jonathan Russell as mercifully as is possible consistently with the duty of exposing him in his true colors. If he had submitted with a good grace to my first castigation, or even had confined his reply to self-defence, I would have left him to the charity of the public. But he tries to

[1] *Duplicate Letters*, 193.

[2] It appeared in the *Boston Statesman*, June 22, 1822, and was included in the *Duplicate Letters*, 119. Adams, *Memoirs*, July 1, 17, 22, 1822.

make me appear such another as himself. I *must* put him down again a little deeper than before. As long as he pretends to maintain the accusatory style I *must* cover him with shame and confusion of face. If he wishes for peace with me he must hold out the white flag. I should be sorry to lose the friendship of Mr. Barney Smith,[1] and shall in no wise deserve to lose it. They who want a President with a cool head must vote for one. And so must they who want a President with an honest heart. If they can hit upon a man uniting both, so much the better for them.

Faithfully yours.

TO ROBERT WALSH

WASHINGTON, 15th July, 1822.

DEAR SIR:

I duly received your favor of the 9th and sympathize cordially with you in the effects of that profuse *distribution of caloric*, as one of our worthy and learned friends here has it, which has been made during the present month. It has disqualified me as completely as you say it has you, of which you will have proof in the course of the week from the *National Intelligencer*. Your Southerners pretend that the nearer the sun, there is the more intellect. But if I judge of its effects upon myself I say it stupefies.

When I said I did not wish you to depart from your neutrality between Mr. Russell and me, I meant it only with reference to your editorial capacity and to the *personal* part of the controversy. Upon what the French call the *procédé* on both sides I think you have been entirely neutral, and I wish you to continue so as much as you possibly can con-

[1] Russell's father-in-law.

sistently with what is due to moral principle as affected by the conduct of public men. I want no other auxiliary to put down Mr. Russell as a man of candor than himself. Upon the *political principles* in discussion between him and me you have not been neutral. In acquitting me and my colleagues of the Ghent majority of all evil intentions, you did in the main take side with him on the principles asserted by him on the publication of his first letter. Now if you have not seen or do not see cause in the course of the discussion which has taken and will take place to revise your opinions, as they were expressed on the first perusal of his letter, I shall be very glad if you can conscientiously maintain your neutrality upon them hereafter, because we have yet great national interests at stake upon the correctness of the principle that the treaty of 1783 was not, or at least that none of the rights or liberties recognized in it were abrogated by the war. Nothing but that principle saved the fisheries after the last peace, and if we waver upon it we shall have the question up again the first war we may have with Great Britain. If on a thorough examination of what I have to say in support of my principle you remain unconvinced, I then ask your neutrality because it is *our side* of the question. If otherwise I should certainly be glad to have on a final editorial view of the whole discussion your support. For on these points I can truly say to you as Frederick the second said to Laudohn, "J'aime mieux vous avoir de mon côté que vis-à-vis."

As to what personally concerns myself in my letter of 21 ultimo I will thank you to take no notice of it in public whatever. I mentioned it to let you know I was aware of most of the machinery at work against me, as well under as above ground, and I am walking between burning ploughshares here. I take it however as philosophically as I can.

A man must fulfil his destiny. And let the will of the people be done. I will not stir a finger to direct it towards myself.

I am, etc.

TO LOUISA CATHERINE ADAMS

WASHINGTON, 22nd July, 1822.

MY DEAREST LOUISA:

We continue to be delighted almost daily with your journalizing letters which, together with our visits to the theatre, enliven the dulness of our half solitude. Scarcely a day passes indeed but I have new visitors at my office, but they are merely candidates for office and, though of course all persons of extraordinary merits, their conversation has no tendency to make or keep one cool in these dog days. On the progress of the *feud* between Colonel Cumming and Mr. McDuffie I marvel a little and meditate much.[1] I marvel chiefly that with all the publicity that has for so long a time been given to it, the *cause* of the duel has never yet been made known. In my estimation of things this is a piece of preliminary information essential to the making up of an opinion upon what has followed and is like to follow. I regret that men so capable of better things as both these gentlemen appear to be should suffer their passions to lead their fortitude into this direction which it has taken. And there is an inflexibility in the conduct of Cumming which seems akin to bloodthirstiness. But it must be considered that he is as eager to expose his own life as to take that of his antagonist, and according to the code of single combat his course has at least the appearance of consistency. Yet if they are to fight again I cannot help wishing his adversary may be as successful at the second shot as *he* was at the first.

[1] See Sabine, *Notes on Duels and Duelling*, 242, 326.

I have some curiosity to learn whether with a ball lodged in the small of his back he would be as earnest for another shot then and there, as he was for a chance against an adversary in that condition.[1]

From the explanation which Judge Johnson has given it would seem that he really did not intend to reflect upon the court of magistrates and freeholders. I have not seen his pamphlet, and do not know whether he has assigned the reason why he did just at that time publish anonymously the narrative which gave offence.

George and I and all the family here are well save gasping for breath from the heat. I am drudging like a slave in self-defence against brother Jonathan, though I know very well that his character can never be put down much lower than he has put it himself by his reply to my remarks. But though he had no good defence to make of himself, he did turn upon me with a new quiver of Lilliputian arrows which I have thought it my duty to shake off. My present intention is if he writes again, to let him have the last word; but I have not done with his late publication yet. I see the public are getting weary of the controversy, but they are the first to show it who are afraid that I shall not leave even a nail in their hands to scratch me with.

On Saturday we had for a farce at the theatre, the Midnight hour, a translation [2] from the French of *Ruse contre sense ou guerre ouverte*. Do you remember seeing it at poor Coulaincourt's, and the comments to which it gave rise there? I believe it was his *compliment de clôture* at the court of Alexander. It was very amusing then and is now.

George is plunged head over ears in the *Fortunes of Nigel*.

Yours affectionately.

[1] Adams, *Memoirs*, October 5, 1822.

[2] By Elizabeth Inchbald.

TO LOUISA CATHERINE ADAMS

WASHINGTON, 25th July, 1822.

MY DEAREST FRIEND:

Another number of your journal came to hand this day. I mark your advice to say nothing more upon the subject of the "diplomatic controversy," [1] and I am much inclined that way myself. I have no desire to put *him* down lower than he has put himself, but the opinions upon objects of great interest avowed and urged in his letters want putting down much more than the man. And I have written what would put them down forever, and make Walsh ashamed of what he has said in their favor. Whether I shall publish it or not is a question. But I have it nearly all written and mean to finish it completely.

Walsh has contradicted me by a subterfuge. He says that his editorial remarks of 10 May were all written by himself, but the *professions*, and the *apologies*, and the *vouchers*, of which they consist, all came from Mr. Russell himself directly or indirectly. Russell's friend,[2] through whom the manuscript was communicated, *vouched* for its correctness as a copy. It was not correct. It was neither the original nor the duplicate, but a mongrel bred from both. The remark that the letters being *private* did not imply that it was secret, must have come from Russell, or it was a remark which Walsh should not have made, for it misled the public.

[1] "I am weary and sick at heart of what they call the 'diplomatic controversy,' and have been much more mortified than proud of a victory over brother Jonathan. I had never any ill will to him and did all but entreat him not to force himself and me before Congress and the nation." *To Louisa Catherine Adams*, July 23, 1822. Ms.

[2] Robert M. Patterson.

The letter was secret as well as private — secret at least to those whom it accused.

I did not and do not desire that Mr. Walsh should side with me in this matter. All I asked of him was neutrality. He says the facts against Russell are overwhelming. This is more than I desired him to say. The verdict of the public was already given. But I think he ought not to have contradicted me as to the editorial remarks; at least without admitting that although written by himself, he had the substance of them from Mr. Russell or his friend, which was all I meant to say.

. . . . . .

TO LOUISA CATHERINE ADAMS

WASHINGTON, 2nd August, 1822.

. . . . . .

My friend *Walsh* has no cause to be uneasy at his *neutrality* between brother Jonathan and me. He could have no just reason to decline publishing his letter, and after publishing it I think he was in some sort bound to be neutral between us. He has fairly given both sides of the question, and in one of his last papers he says that I have the best of the *personal* part of the controversy. If there were a human being who after hearing both sides hitherto said otherwise, I should have thought even this too much for him to say. But I care nothing about the personal part of the controversy. I once thought Jonathan Russell my friend and valued his friendship. I now bear him no more ill will than Uncle Toby did to the fly that annoyed him by his buzzing. But the mischief is in his principles, and Walsh

has not only departed from neutrality upon them, but committed himself so deeply in publishing the letters without waiting to hear what I had to say against them, that I expect he will never be on the right side concerning them. Ask him if he has seen the comments upon the controversy in the *Louisville Public Advertiser*, and an answer to them of about half a column in the *Argus of Western America*, a paper printed at Frankfort, Kentucky.[1] The piece I mean is in the paper of 18 July, and if I mistake not comes *from the first hand.* It betrays not a little vexation and disappointment, and contains proportionally as much misrepresentation as Jonathan's own productions. It seems that in Kentucky the question has been asked how, if the Mississippi proposition was so desperately wicked, Mr. *Clay* came to sign *his* name to it? And in this paper, which is anonymous and headed "*The Ghent Mission*," he is defended upon the ground of *the new instructions*. Jonathan says the new instructions had no effect on the question at all, and appeals to Clay for the assertion that the question was never taken after they were received. But this piece is as spiteful against "*the Secretary*" as Jonathan himself. It says, *if the Secretary were President*, and the British were to claim the navigation of the Mississippi tomorrow, he would be obliged to grant the claim or contradict his favorite principle. Jonathan in the *Boston Statesman* says, *by the way*, much the same thing. 'Tis the last poor thread by which they think they have *the Secretary* still entangled, but he *will* break it and *could* wind it round Mr. Clay himself.

Last evening we saw Booth in Richard the third. He is here engaged for five nights. The house was tolerably well filled, but I did not like him so well as when I saw him in England. He seemed to have little respect for his audience

[1] It is included in *Duplicate Letters*, 233.

and not to think them worth pleasing. I doubt whether he will fill the house even his five nights. . . .

Ever faithfully yours.

TO LOUISA CATHERINE ADAMS

WASHINGTON, 5th August, 1822.

. . . . . .

Your recommendation to me to cease viewing a place hunter in every phiz, I suppose is connected with the advice to make a summer excursion to visit my father. Most of those whom I see here would think themselves very ill used if I did not view them as place hunters, for they neither desire to see nor to be seen by me in any other capacity. A place or a subscription is the object of all the *new* acquaintance that I make, and if I could satisfy the seekers of the first of these classes as easily as I can those of the second, they would not have so much reason to complain of my *vinegar aspect* as they do. You may be assured that I feel in the fullest extent the value of your advice, as well as the affectionate motives by which it was inspired. But you are *sanguine* in the observation that at this time all is warm in my favor. The last attacks upon me have been in some degree foiled. I have not been yet killed in the battle, and the *tool* used against me has lost its edge or been broken in the conflict. But the controversy is far, very far, from being ended, and its management becomes more difficult the farther I proceed. Upon the *main* topics of Jonathan's letter my victory is not yet complete, and although I can make it so in every part, I can not do it without exposing him in lights more odious than those in which I have exhibited him already. At this moment the public are so far

from *favoring me*, although they have done justice to him, that a very large portion are on the lookout to catch me tripping, and will seize upon the slightest indiscretion to turn the tables against me.

The *Richmond Enquirer* has copied that part of the paper in the Kentucky *Argus*, mentioned in my last letter to you, which points out the direful consequences "*if the Secretary should be President tomorrow*," and calls upon me to answer it. I shall answer it, not at all to the satisfaction of the *Enquirer*. But the *Enquirer* has suppressed the part of the paper in the *Argus* which *admits* that Mr. Clay signed all the papers, and is therefore as responsible for the obnoxious proposal as "the Secretary." The St. Louis *Enquirer* has done better still. He has pompously published the President's *messages* to the House of 4 and 7 May, and Jonathan's *private* letter, and has suppressed the *duplicate* and the Secretary's *remarks*. These *Enquirers* stick to their character. They still *enquire*, and take only such answers as suit themselves.

Ever affectionately yours.

TO ROBERT WALSH

WASHINGTON, 11th August, 1822.

MY DEAR SIR:

In the *controversy* which has arisen relating to the transactions at Ghent, the public attention has hitherto been chiefly confined to the circumstances incidental to it of recent date in the conduct of Mr. Russell and of myself. From intimations in some of my letters to you, and particularly from incidents noticed in my paper republished in the *National Gazette* of the 9th instant, you have observed that the origin

of this attack upon me is of much older existence, and that the first preparation for it was laid in an alteration proposed by Mr. Russell, as he stated at the request of Mr. Clay, to the draft of the joint despatch from the mission of 25th December, 1814, to the Secretary of State. It had been *brewing* ever since that time. Through the whole affair Mr. Russell has only been *ministerial* in the part that he has acted. I propose to make this rather better known to the country; but as Mr. Russell is the only person *as yet* who has pawned his name to this negotiation, it is only with him that I have hitherto been at issue. The collection which I propose to publish will carry back the attention of those who take interest in this concern to the beginning of these transactions, and will show some part of the chain of incidents which have brought the controversy to its present state. The publication of one of the versions of Mr. Russell's letter in the *National Gazette* of 10th May is a circumstance of so much import in the history of this *league* that I propose further to notice it in my publication. But as in anything which concerns you I wish to say nothing which might either implicate you or be in any wise other than would be agreeable to you, I now inclose a copy of what I am disposed to insert if agreeable to you. It was not my intention in my late rejoinder, as it is called, to intimate that your editorial article was *written* by Mr. Russell, but that it was written upon *representations* made to you by him personally, or through a common friend. The extract from the cancelled instructions of 15th April, 1813, for instance, which was published in the editorial article I know could have come only from him, and the paragraphs disavowing hostility to me, referring to the passages in the letter professing respect for the majority and justifying the *writing* of the letter as an ordinary and usual exposition of the views of the

minority, I could not but consider as having been *suggested* to you by or from Mr. Russell himself. Upon those *representations* it was not surprising to me that you entertained the opinions expressed in the editorial article. But on his part what could possibly be the motive for publishing his letter in the *National Gazette*, unless it were that of forestalling the public opinion before I could be heard, and the editorial article, although not expressly acquitting me of dishonorable purposes, did very distinctly approve of the principles of Mr. Russell's letter in relation to the proceedings at Ghent. Now as to the mere personal part of the controversy I tell you in the sincerity of my heart that I am much more ashamed than proud of my victory over him. And every time that I hear, as I do, his conduct styled a *Yankee trick*, I feel more mortification than I can ever take pleasure in his disgrace. But he *did* get the start of me as to the principles discussed in his letter, and your editorial article largely contributed in this respect to his success. Now his principles were good for nothing. Not one of them, to use an elegant phrase of the *Richmond Enquirer*, *will hold water* a whit more than his excuse for falsifying his own letter. My publication will contain *my* argument upon the right to the fishing liberties, upon their value, upon the *nothingness* of value to the British of the proffered right to navigate the Mississippi, and upon the abrogation of treaties by war. But for you there will be nothing new in it, for I have already written to you all the substance of it. I have desired you, if you retained your first impressions on these points, not to support them in your *Gazette* until you shall have heard all I have to say against them. After the publication of my pamphlet, if you still retain them, I shall no longer request you to refrain from discussing them as you shall think proper. In that case I presume you will have no

objection to my republishing the whole of your editorial article of 10th May, as I propose from the enclosed paper. If you have any objection to its republication, or to any part of the enclosed paper, I will withhold or modify it in any manner that may be agreeable to you. All that I consider indispensable is the notice of the publication of the letter in the *Gazette*, and of its variations from the original with special reference to the cancelled instructions.

In some parts of the western country the purposes for which this affair was got up in Congress are pursued as if they had not been detected. The St. Louis *Enquirer* for example publishes the President's message to the House of 7th May and Russell's private letter and suppresses the duplicate and the remarks. This is a procedure which Jonathan would call *unilateral.*

Let me have an answer as soon as convenient to this letter. In the meantime I remain faithfully yours.

TO RUFUS KING

WASHINGTON, 15 August, 1822.

DEAR SIR:

I enclose herewith a copy of the British act of Parliament opening the British ports in *America* and the West Indies to our vessels and a draft which I have prepared for a proclamation of the President under the act of Congress of 4 May last. You will see the minute endorsed on the draft of the proclamation by the President, and I ask the favor of your opinion with regard to the propriety of the *restriction* which you will observe is reciprocal to that in the third section of the British act.

There is another question upon which I wish for your opinion the more as I think the act of 6 May last was drawn and matured by you. The authority of the President to issue his proclamation opening the ports of the United States to British vessels is to be exercised on satisfactory evidence being given to him that *the ports* in the *islands* or *colonies* in the West Indies under the dominion of Great Britain have been opened to the vessels of the United States, and is to operate in favor of British vessels employed in the trade and intercourse between the United States and *such islands* or *colonies*. There seems by the words of the act to be a limitation to the trade with the islands and colonies in the West Indies.

The British act opens *certain ports* not only in the West Indies but in *North America* to the vessels of the United States. Was it not the *intention* of the act of Congress of 6 May last to authorize the President to proceed *pari passu* with the British government in opening the ports and of course to open our ports to British vessels coming from Quebec, Halifax, St. Johns, and St. Andrews, in New Brunswick, and St. Johns, Newfoundland, as well as to those coming from ports in the West Indies? I have so presumed and have drafted the proclamation accordingly.

It is proper to apprise you that during the passage of the British act through the House of Commons, a formidable opposition appearing against it, one of the arguments used against its passage was that it would not be met by a corresponding measure on the part of the United States. Mr. Robinson the President of the Board of Trade in consequence of this had an interview with Mr. Rush in which the latter, though declaring that he had received no recent instructions from us on the subject, expressed his entire belief that in the event of the passage of the act correspond-

ing measures of a co-extensive liberality would be immediately adopted on our part.

If the restriction in the draft of the proclamation of importations in British vessels to articles of the growth, produce or manufacture of the island or colony from which the vessel shall directly come be too narrow, would it be expedient to insert in its stead a restriction to articles of the growth, produce and manufacture of the *British colonies* in the West Indies for vessels coming from the West Indies and to articles of the growth, produce or manufacture of the British colonies in North America for vessels coming from North American ports? [1]

I beg your answer as soon as may suit your convenience and remain with great respect, dear Sir, very faithfully yours.

P. S. I enclose also a letter from Colonel Aspinwall relating to the British act. I have to request the *return* of all these papers.

TO HENRY ALEXANDER SCAMMELL DEARBORN

WASHINGTON, 19th August, 1822.

DEAR SIR:

I have received your friendly letter of the 13th instant and am much gratified to be informed that the course which I have pursued in my own defence and that of my colleagues against the denunciation of Mr. Russell has met your approbation. It has been on my part the discharge of a very painful duty from which I thought it impossible for me to

[1] The proclamation, dated August 24, 1822, is in *Messages and Papers of the Presidents*, II. 184.

shrink. I regret exceedingly the predicament in which he has placed himself and the necessity which he imposed upon me of unveiling his conduct to the public. So far as the controversy has been personal I have wished to withdraw from it at the earliest possible moment; but the doctrines of his letter, plausibly combined and artfully set forth as they were, required a more complete and permanent counteraction than the scattered fragments of a newspaper contest could embrace. I hope that the people of the Union will now look thoroughly into the question as it was really *stirred* in the American mission at Ghent; that they will see which was really the American side of that question, and which the side of mere sectional, not interest but prejudice. It was in truth a piece of mere chicanery, combining with the enemy to deprive Massachusetts of her fisheries. If the British were to ask by treaty for British subjects a right to travel in the stage on the turnpike road from Boston to Providence, it would be of just as much use to them and just as much injury to us as a treaty right to navigate the Mississippi, and as the laws are they have it equally without treaty. Mr. Russell was one of the last men in the world from whom I could have expected such an attack, nor had I the slightest suspicion of it till he brought his duplicate to the Department of State. After all he performs but a subordinate part in the drama.

I am, etc.

TO LOUISA CATHERINE ADAMS

WASHINGTON, 23rd August, 1822.

MY DEAREST LOUISA:

All your journals have been duly received, and I should not have failed writing to you every day but for the occupation which absorbs all my leisure. When I first began the remarks upon Jonathan's *duplicate*, I told you it was to me an affair of more than life and death, and so it is still. The plot has been seven years hatching, and its whole history has not yet been told.

Your advice to treat all place hunters courteously is excellent, but you know there is a Scylla as well as a Charybdis. One of the first objects of those worthy citizens is to obtain a *promise*, and many of them are not at all scrupulous in their modes of address to that end. Some ask it with downright importunity, others like elderly maiden ladies construe a civil word and even a smile into a promise, and then if not on the first possible occasion gratified, charge one with giving delusive hopes and expectations. It is the bent of my nature to be rather more willing to be thought harsh than insincere.

I was diverted with the article of intelligence from Philadelphia that I wear neither waistcoat, nor cravat, and sometimes go to church barefooted. Some unknown friend of mine in the *City Gazette* has gravely undertaken to justify me against this charge, as if it were true. As for the cravat, you know I must plead guilty, and vouch my black riband in mitigation. But for the rest I take some comfort in the thought that even in affairs of the importance attached to *dress*, my backbiters are obliged to lie to abuse me. The truth, that I am careless of dress, will not serve their turn.

. . . . . .

TO LOUISA CATHERINE ADAMS

WASHINGTON, 28th August, 1822.

. . . . . .

I had received a letter from Mr. Connell since his arrival, in this country and a promise of a visit which I am expecting from him. Connell told you of all the writers in the *Franklin Gazette* but one, and that is T. Sergeant,[1] our friend's brother. But the principal hand is Dallas,[2] a young man who lacks advancement, and is in a fair way to obtain it.

Ask Connell, if you see him again, or any other of your visitors who talks politics, who is the editor of the *Columbian Observer*, the new paper that is rising to take the place of the setting *Aurora* — the paper that a fortnight back said I went to church barefoot, and now says that piece of wit was *ironical*. There is no helping it. The donkey *will* play the lap dog.

As the weather is subsiding from fever heat I have resumed my cravat; but you know there is always room, summer and winter, for ironical wags to make merry with my dress. May my graver foes never have so good reason for their charges.

My *book* as you call it will be a pamphlet of about two hundred pages, three-fourths of which will be the papers already published. It is about half printed, but I suppose will be out before the end of the next month. I have done writing for it, but as it has made warm dog-days for me, I shall be glad if it does not prepare for me a warm winter. The printers here publish it at their own expense and I have not stipulated with them for so much as a copy. The public

[1] Thomas Sergeant (1782–1860).

[2] George Mifflin Dallas.

interest in the whole affair is over, and with the exception of some *hints* in the introduction, and some remarks upon the editorial article of the Kentucky *Argus* of 18 July, the rest is dry discussion which few will take the trouble of reading. If anything can be made of it at the next session of Congress by those who got up the plot, they will not fail of using it for their purposes. If not, it will be buried in oblivion.

You ask me why I frequent the theatre. First, because having paid for admission for two persons by my two shares it is the only interest I get for my money, and the tickets cost me nothing. Secondly, because I have all my life had a very extravagant fondness for that species of entertainment, and always indulge myself with it, unless when motives of prudence, or propriety, or pride, or duty of some kind real or imaginary, prescribe to me the self-denial of them. Perhaps this is news to you, after more than twenty-five years of marriage. It is nevertheless true. The stage has been to me a source of much amusement for more than forty years. But I have always enjoyed it with discretion; first, with reference to expense, but secondly and chiefly, with respect to morals. To which end I have made it a rule to make no acquaintance with *actresses*. The first woman I ever loved was an actress, but I never spoke to her, and I think I never saw her off the stage. She belonged to a company of children who performed at the Bois de Boulogne near Passy, when I lived there with Dr. Franklin and my father. She remains upon my memory as the most lovely and delightful actress that I ever saw; but I have not seen her since I was fourteen. She was then about the same age. Of all the ungratified longings that I ever suffered, that of being acquainted with her, merely to tell her how much I adored her, was the most intense. I was tortured with the desire for nearly two years, but never had the wit to compass it. I used to dream of her

for at least seven years after. But how many times I have since blessed my stars and my stupidity that I never did get the opportunity of making my declaration. I learnt from her that lesson of never forming an acquaintance with an actress to which I have since invariably adhered, and which I would lay as an injunction upon all my sons. But thirdly, my reason for going to the theatre now is that as yet I can do nothing else with the evening. This reason will soon cease. We have had Booth. We now have a man by the name of Wilson, and next week we are to have Cooper, all tragedy heroes. But I prefer Jefferson to them all. The broader the farce, the more I enjoy it. But I expect before it is over I shall be abused for it in the newspapers.

. . . . . .

TO LOUISA CATHERINE ADAMS

WASHINGTON, 2 September, 1822.

MY DEAREST FRIEND:

. . . . . .

I am told that the writer of the paragraphs in the Washington *City Gazette* against me is a man named *Richards*,[1] from Connecticut. He was in the army during the late war, not much to the advantage of his reputation. He has been two or three years hovering about the Departments here in search of a place, and circulating proposals for setting up a newspaper of his own. His character was for a long time an obstacle to his pretensions, but he has lately been taken into favor at the Treasury Department where he has obtained a place.

[1] A clerk in the Treasury Department. George H. Richards was a captain in the artillery corps in the war of 1812, resigning in December, 1815.

The *City Gazette* for some time past has *alternated* in its treatment of me with its praise and abuse, a kiss today and a fillip tomorrow. Would you know the object of this? It is to show me what it *can* do. I was told a day or two after its defence of my summer costume, that Jonathan Elliot asked an acquaintance of mine whether I was *his friend*, observed in substance that he could not afford to be a friend for nothing, intimated that I had not lately given him any *jobs* in his way, and boasted of the power of *his press* to affect the prospects of Presidential candidates, adding that he *had been serving me by putting down Mr. Calhoun*, as he had effectually done. I told my informant that Elliot had not put down Mr. Calhoun, and if he had, neither did it nor intended to do it to serve me. That in the way of his business I had heretofore served him as well as I could. I had given him jobs for which his charges had been so excessive that I had told him I should not employ him on *public* account again. That I purchased no editor or writers for newspapers with public money, nor with my own. Whether this was reported back to Elliot or not I cannot tell; but it is from about that time that the Treasury scribes appear to have had his paper to themselves.

. . . . . .

TO LOUISA CATHERINE ADAMS

WASHINGTON, 6th September, 1822.

MY DEAREST FRIEND:

. . . . . .

I have observed your advice to take no notice of the newspaper attack of Mr. Floyd upon me; but before I received your letter I had, as you will have seen, very briefly answered him,[1] and have no doubt he will reply. I shall notice him further in my book. He is not mad. In the *Cabal* against me Floyd has been a very active personage. He called for the Ghent papers under the mask of his bill for the occupation of Columbia River, with the hope and expectation that they would enable him to demolish me. When he found that his blunderbuss had flashed in the pan, that his aim had been discovered and commented upon, not to his advantage, and that his accomplice Russell was in the mire, he came out upon me on a new tack, pretending that I had wronged *him*, by stating that his call for Russell's letter had been suggested to him by Russell himself. His main objects now are to continue his assault upon me and to come in aid of Russell. And he was instigated to this publication by the *Richmond Enquirer*, a paper by and through which a gang of intriguers there govern the state of Virginia, and give the tone to her influence throughout the Union. There was a paragraph in that paper some weeks since when they saw Russell was going down, spurring Floyd to come out, and in publishing my answer to him, they have added an insidious remark to give him his cue for a reply. The *Richmond Enquirer* and its inspirers, Floyd and Russell, are in

[1] Printed in the *National Intelligencer*, August 31. Floyd's letter and Adams' reply are in *Duplicate Letters*, 243, 248.

this affair all subservient to others yet behind the curtain. Floyd now wishes to be understood as disavowing any intention of attacking me by his call for the Ghent papers, that he may have the advantage of fighting under neutral colors. This I shall not allow. I well know with what disadvantage I am contending alone, against a pack, and with the mind of half the nation prepossessed against me before the explosion by seven years of undermining. How I shall come out of it, God only knows, and on him alone I rely. At every step I take I want a friendly adviser, and have had none but you. The *book* will form a critical point in the controversy and most probably will bring out new combatants. Hitherto the public had seen in this affair only Russell and me. I have plucked the mask from him. Mr. Floyd has now made himself a party to the strife, and I will pluck the mask from him. Perhaps I may show glimpses of yet another face, and how that will be taken is yet to be seen. The first mover of the whole machine has not yet been disclosed to the public eye. I shall dare him out in the book, and if he comes, you have seen only the first act of the *mellow*-drame. Now do not dissuade or discourage me, nor be discouraged for me yourself. The imposthume must be probed to the bottom, whatever may be its discharge. Be assured I have had from the first production of Russell's letter besides this, no other alternative than that of sinking a passive victim to as base an intrigue as ever was plotted against a public man.

Adieu. Take special care not to mislay this letter. Burn it, or keep it so that it may not fall into the hands of the Philistines, or reach any of those FRIENDS of mine whom you liken to the autumnal evenings of this climate.

Ever affectionately yours.

TO ALBERT GALLATIN

WASHINGTON, 7 September, 1822.

DEAR SIR:

In your dispatch No. 221 of 10 July you mention the receipt of Mr. Russell's letter of 11 February, 1815, and its duplicate, with my remarks upon both, and you observe it would be with great reluctance that you would find yourself obliged to write anything on the subject. I do not imagine it will be necessary. The public sentiment is rendering full justice to Mr. Russell and there is no probability that the transactions to which his letter refers will ever be made a political engine to dishonor *you*.[1]

It was with the utmost reluctance that I found myself compelled to notice it but as he deliberately made the Department of State the vehicle for bringing it before the House of Representatives I felt that *I* had no alternative but to comment upon it. The communication to the House has been followed by publications in the newspapers and I am now preparing a collection of all the documents relating to the controversy which will form a volume of near 300 pages and of which I will send you a copy when printed. The primary object of the whole affair was to raise a clamor in the western country against me. But it has been so indifferently managed that even that purpose has in a great measure failed. It had been represented that *I* was the

[1] "The controversy which is going on between Mr. A [dams] and Mr. R [ussell] and in which you are made a party, has attracted considerable notice, and will probably continue to command attention. You will readily perceive that the object of the party was less to injure Mr. A. than to benefit another, by placing him in a conspicuous point of view, and especially by showing that Western interests could not be safely trusted to persons residing in the Atlantic States." *Crawford to Gallatin*, June 26, 1822. Adams, *Writings of Gallatin*, II. 249.

author of the obnoxious proposal and the intention was to fix it exclusively upon me. Since the facts as they were have been disclosed even this purpose is in a great measure abandoned. There has been so far as I have heard not a word lisped against you for your share in the offence nor do I believe there ever will be.[1]

I am, etc.

TO LOUISA CATHERINE ADAMS

WASHINGTON, 12th September, 1822.

MY DEAREST FRIEND:

. . . . . .

There is a newspaper just opened here called the *Washington Republican*, published Wednesdays and Saturdays, said to be under the auspices of Mr. Calhoun — certainly not under those of Mr. Crawford.[2] It is already at war with the *Intelligencer* and *City Gazette*, the *Richmond Enquirer*,[3] *New York Advocate*[4] and *Boston Statesman*,[5] all of which have manifested much discomposure at its appearance and contents. All have attempted to run him down at the start: Gale and Seaton by *coaxing*, Noah by *quizzing*, Col. Orne by *skulking*, Ritchie by *hinting*, and the *City Gazette*[6] by downright base scurrility and flinging dirt, hot from the Treasury, not only at Mr. Calhoun but *at his mother*. All will not do. He will give them all thread to unravel.

[1] Adams, *Memoirs*, September 7, 1822.

[2] Thomas Lorraine McKenney (1785–1859), of Maryland, superintendent of the United States trade with the Indians, was responsible for this journal. Ford, *Thomas Jefferson Correspondence* (Bisby Collection), 274.

[3] Thomas Ritchie.

[4] Mordecai M. Noah.

[5] Henry Orne was the editor.

[6] Jonathan Elliot.

I have neither lot nor part in this affair. The *Washington Republican* professes to support and defend *the administration*, and says he will defend me in case of need, or the Secretary of the Navy, or the Attorney General. But his real object is to identify the Secretary of War and *the administration* as one and the same, which object has already been found out and divulged. Now the *Franklin Gazette* has given me a sample of the *defence* I am to expect *in case of need* from Calhounite editors. All I have to say to them is, Hands off, gentlemen; *non tali auxilio*. Mr. Noah or Mr. Jonathan Elliot shall defend me rather than you. In the hour of need I found no one to defend me but myself, and so I well know it will be again.

The heat has returned upon us "in all the fierceness of autumnal fires." Fahrenheit's thermometer at 94. . . .

Faithfully yours.

TO LOUISA CATHERINE ADAMS

WASHINGTON, 15th September, 1822.

MY DEAREST FRIEND:

. . . . . .

The new Commissioner of the Land Office is a Judge McLean [1] of Ohio. I have no personal acquaintance with him, but he was a member of Congress during the late war, when he was well known to the President and to Mr. Calhoun. I was a little surprised at the *suddenness* of the appointment. The Land Office being an appendage to the Department of the Treasury I had expected the President would have waited to consult Mr. Crawford in the selection. But the place has been filled before Mr. Crawford could

[1] John McLean (1785–1861).

have heard of the death of Mr. Meigs, and by a person probably more friendly to Mr. Calhoun than to Mr. Crawford.

As to *the whale* that ran himself ashore upon my land and has been dispatched by another *spear*, I suppose that by the law of the land he belonged to me; but the newspapers say that by the *custom of the coast* he belonged to the first finder. As I am not on the spot to claim or maintain my right, I am not disposed to make a question of it. He is not the first *whale* that has got himself cut up and *tried* by floundering upon my territories.

I have received a letter from Mr. Henry Meigs, who is at Perth Amboy, and requests me to aid his mother with my advice, which I have very cheerfully offered her. He says he cannot come on here himself.

The theatrical campaign closes here this week. Cooper finished last Thursday with Virginius, — I think the best English tragedy since Cato. As soon as the play was over Cooper was told of the death of one of his own children, which had been known it seems before, but was withheld from him. I was *very* much pleased with his performances, with the exception of Bertram, a character and a play so disgusting to me, that I could not take pleasure in seeing it performed by any one. . . . [1]

Ever faithfully yours,

[1] "Saturday morning I gave the last sheet of my book to Mr. Force to be printed. In the evening went to the play. The season closed with the Cure for the Heart Ache, and the Ruffian Boy." *To Louisa Catherine Adams*, September 23, 1822.

TO JOHN ADAMS

WASHINGTON, 24th September, 1822.

DEAR SIR:

You have been made acquainted with the controversy in which I have been for some months engaged in relation to transactions at the negotiations of Ghent. As the subject is one in which the defence of my own character and that of two of my colleagues was inseparably connected with the principle of deep concernment to the Union, I have thought it necessary to collect in one publication the papers which have hitherto appeared concerning it adding to them further elucidations of the real character of those transactions. Of this publication I enclose herewith a copy. The introduction and most of the papers subsequent to page 162 have not been before published. In submitting them to your examination I shall ask the favor of your *confidential* opinion on the whole subject. I say confidential because so far as the character and conduct of Mr. Jonathan Russell is implicated I wish that nothing may be said or written *by you* which would give pain to his friends.

The occupation which this affair has given me, added to the necessary attendance upon the duties of my office, has long deprived me of the satisfaction of writing to you, but has in no wise impaired the unalterable sentiments of duty and affection of your son.

TO LOUISA CATHERINE ADAMS

WASHINGTON, 29th September, 1822.

MY DEAREST FRIEND:

. . . . . .

I sent you yesterday a copy of my book, of which after reading as much as you find interesting I wish you to make the disposal mentioned in my last.[1] The introduction contains the summary of all its contents, and the papers which have not been published begin at page 163.

Will you tell Mr. Walsh that I ask his attention to the three papers subsequent to that page, and to the five points stated in the introduction as my principal motive for the publication? For all the personal part of the controversy, whether with Mr. Russell or Mr. Floyd, I want neither aid nor cheering. But I want his deliberate and *impartial* opinion upon the merits of the controversy, separated from all consideration of persons — his *revised* opinion. I want it for two reasons: first, because upon such topics I value his opinion more than that of any other editor of a newspaper in the Union; and secondly, because he did give an opinion at the outset, before he had heard me on the question, and which I hope he will reconsider. He has expressed *wishes* that I should make good my argument, while the *Richmond Enquirer* has told the world that I had asked to be heard again upon it, *probably in vain*. By the *Richmond Enquirer* I shall always be heard in vain for any purpose of truth or justice. But I do not so deem of Mr. Walsh.

Tell him further that I value his personal friendship, and am justly sensible of his kind feelings towards me. That I have seen and utterly discredit the cunning and base in-

[1] It was to be given to Robert Walsh.

sinuations of his enemies and mine, that he had expressed in private contemptuous opinions of me as a writer, opposed to the favorable notice that he has given of me as such to the public. That I well know his opinion of my *style*, and am well satisfied with it; the more so, because though favorable in the main, it has neither been *flattering*, nor blind, or silent to its faults.

With regard to the next Presidential election, tell him, that in his editorial capacity, I wish him to set aside all his feelings of personal regard for me, as completely as if there were no such person in existence. That as *his* friend, I would have him govern himself by two principles. First, a view to the question as connected with the public welfare only, and in subordination to that; secondly, the discharge of his own duty as a public journalist, and the success of his own establishment. I would have him maintain his independence and be the *partizan* of no man. I say this now for several reasons. First, because several of the presses devoted to others have set him down as a partizan of mine, which as he has never declared himself to be — I do not desire him to be. Secondly, because in the general prostitution of the periodical press which the election seems likely to produce, I would gladly see its character redeemed by *one* really pure disinterested and independent editor, and my esteem and regard for him lead me to wish that he may be the man. Thirdly, because you wrote me some time since that he had told you he had no view beyond his present occupation and establishment. As this was precisely the situation in which it was proper that he should place himself with me, it is just that he should know I expect nothing from him as an editor on the score of personal friendship for me.

What a shocking affair, this death of the Marquess of Londonderry! What a comment upon the vanity of human

pursuits, the inanity of glory, and the impotence of power! What must have been the agonies of that mind, which in the midst of a career of unparallelled success was thus driven to suicide by despair! I am far from thinking of him so ill as he is generally thought of in this country. I believe him on the contrary to have been a patriotic British minister, and a man of honor. His personal relations with me were always gentlemanly, conciliatory, and obliging. They have been uniformly the same with Mr. Rush. And I fear we shall be no gainers by the exchange for his successor, whoever he may be. I am thinking if Napoleon and he should "meet at compt," what sort of a *dialogue* would pass between them.

Ever affectionately yours.

TO JAMES LLOYD

WASHINGTON, 1st October, 1822.

DEAR SIR:

I had the pleasure of receiving in due time your favor of the 26th July,[1] to which I have hitherto delayed replying with a view to request your acceptance of the publication herewith enclosed. You will perceive by casting your eye over it that I have availed myself of your permission to adduce in support of my own opinions, and particularly for the refutation of some very pernicious errors of my adversary, your letter to my father of 8 March, 1815.[2]

Had the subject merely presented a personal controversy between Mr. Jonathan Russell and me I never should have published a line after the communication to the House of Representatives upon his duplicate letters. Nor should I

[1] Printed in *Mass. Hist. Soc. Proceedings*, XLV. 405.

[2] *Ib.*, 380.

have added a word more, if he had quietly submitted to that *retort courteous* upon his first diplomatic flourish against his colleagues of the majority at Ghent. But as he did speed a new envenomed shaft against me, in which he had the front to persist not only in the spurious law and perverted facts of his letter from Paris, but in his deprecating estimate of the value of the contested fisheries, I felt a public duty pressing me to lay before the nation information more correct and more true to the general interest, as well as the special interests of our native state. Your letter furnished me the means of doing this in a manner which I trust will prove universally satisfactory to the public, and if it had been written with Mr. Russell's letter before you, it could not have been better adapted to the refutation of it.

I have been highly gratified with the views presented in your letter resulting from your recent visit to the Lakes, a pleasure which I have never yet been able to enjoy, but which I promise to myself as soon as I shall be fairly disentangled from the noose of public service, to which I heartily rejoice that you have again permitted yourself to be tied.

The future capabilities of our country to constitute a power such as associated man has never yet exhibited upon earth are a never failing source of delight to the traveller who, in passing over any part of our almost boundless territory, carries with him a benevolent feeling and a reflecting mind. Our improvements of physical nature upon this continent seem to realize the enchantments of a fairy tale. Would it not be flattering ourselves too much to believe that our improvements in the condition of our moral existence are advancing with equally gigantic strides? Our constitutions of civil government so far as their character has been hitherto tested by experience are certainly very

great improvements upon all the forms of polity that had before been established among men. The sparing delegation and cautious distribution of the power possessed by one man over the will and actions of another (with the exception of slavery), the very limited extent allowed to authoritative control, and the securities and hedges with which personal civil, political and religious liberty are surrounded, have conferred upon us advantages never before enjoyed by human beings. Individual liberty is individual power, and as the power of a community is a mass compounded of individual powers, the nation which enjoys the most freedom must necessarily be in proportion to its numbers the most powerful nation. But our *distribution* of the powers of government is yet imperfect, and although our complicated machine of two co-ordinate sovereignties has not yet fallen to pieces by its own weakness, it exists in perpetual jeopardy, and has already been many times kept together, not by the natural operation of the machine itself, but sometimes by the cement of national union stronger than all the conflicting authorities, and sometimes by those makers and breakers of all human purposes — Time and Chance. Upon these at least it is not wise to place much reliance. We have not succeeded in providing as well for the protection of property as of personal liberty. Our laws between debtor and creditor are inefficacious and secure justice to neither. Our banks are for the most part fraudulent bankrupts. Our judiciary is not independent in fact, though it is in theory; and according to the prevailing doctrine our *national* Government is constituted without the power of discharging the first *duty* of a nation, that of bettering its own condition by internal improvement. Our private morals are tarnished by the unexampled prevalence of drunkenness, and our popular elections and legislative assemblies,

though I believe less corrupt than other bodies of the same description have ever been in Europe, are yet more infected with intrigue and trickery than beseems a virtuous republic. It is among the obligations of our statesmen to apply their ingenuity and exercise their influence for the correction of these evils; to aim as far as their abilities extend towards the moral purification of their country from its besetting sins. First, by setting the example of private morality; and secondly, by promoting the cause in every way that they can lawfully act upon others. The more so as these are vices, excepting perhaps intemperance, of which we hear little in the pulpit and even in the schools.

But that I may not run into a sermon, let me thank you once more for the permission to give your letter to the public, and renew the assurance of the respect and long rooted attachment of your servant and classmate.

TO ASBURY DICKINS

WASHINGTON, 4 October, 1822.

SIR:

In requesting you to make known to the Columbian Institute my acceptance of the honor which they have conferred upon me by electing me their President, I should do injustice to my own feelings and to theirs, by forbearing to add the expression of the deep regret with which in common with them I lament the occasion there has been for this election. Grateful as I am for this testimonial of the favorable regard of the society, I should have felt less diffidence in receiving it could I have flattered myself that I should be enabled worthily to supply the place of a predecessor in whom simplicity of heart, purity of principle and unblem-

ished integrity formed the basis of a character of which the meekness of a quiet spirit, the most comprehensive benevolence and an ardent and active zeal for the interest and promotion of science were the congenial ornaments.

With my thanks for the very obliging manner in which you have notified to me the choice of the society I pray you, sir, to accept the assurance of respect with which I am your very obedient servant.

TO THE PRESIDENT

[James Monroe]

Washington, 5 October, 1822.

Dear Sir:

. . . . . .

A Mr. Burckle called upon me this morning, just arrived from Bogota charged with a project to negotiate a *loan* of 3 millions of dollars for the government of the Republic of Colombia upon very advantageous terms, and which will, if successful, be useful as he says to the commercial relations of the United States. He wished to know whether the Executive would be disposed to *countenance* this loan by a private communication to persons in Philadelphia who may be disposed to engage in the loan (say to S. Girard, R. Ralston, the U. S. Bank, etc.) that there may be yielded *confidence* in the borrowers. Burckle is by birth a German, naturalized citizen of the United States, has resided in this country upwards of twenty years, but the two last years in Colombia, brother-in-law of Mr. Gebhard,[1] member of Congress, from New York, and otherwise respectably connected. He showed

[1] John Gebhard, of Claverack.

me his authority to contract for the loan which appeared regular and complete. He is well known in Philadelphia and appears to be an intelligent man.

He says they are good Republicans in Colombia and are much displeased with the royal propensities of San Martin in Peru, and the Imperial dignity of Augustin the 1st in Mexico. He says too they are afraid of Mexico. And that *Bolivar* himself is thought better of for a general than a *Liberator President.* I told Mr. Burckle I could only report his wishes to you but asked him to write me from Philadelphia what success he might hope for his loan. He left Bogota late in August, landed yesterday at Baltimore, and came immediately here. He goes tomorrow for Philadelphia.

I am, etc.

TO LOUISA CATHERINE ADAMS

Washington, 7 October, 1822.

My Dearest Friend:

Your letter and journal to the 3rd have come to hand. If I should give you the reasons why I cannot go and spend a week at Philadelphia, to show my friends there how much I long to be President, you would think them very ridiculous, and me not less so for detailing them. My friends at Philadelphia are not the only ones who send me kind messages to inform me that unless I mend my manners, I shall never be President. Well, and what then? There will be candidates enough for the Presidency without me, and if my delicacy is not suited to the times, there are candidates enough who have no such delicacy. It suits my temper to be thus delicate. Do they call it aristocratic hauteur and learned arrogance? Why, so be it, my worthy friends and

approved good masters. It is not then cringing servility, nor insatiate importunity.

If my friends will neither say nor write to me a single word about the Presidency, from this time forward until the election is over, I believe it would be better for me and perhaps for them. The event will neither depend upon them nor upon me. They and you think I am panting to be President, when I am much more inclined to envy Castlereagh the relief he has found from a situation too much like mine, though I implore the mercy of God that I may be never so deserted of him as to seek relief in the same manner. I have reliance upon God, and therefore while possessed of my reason, I shall never cut the thread of my own life. I have reliance upon my country, and therefore will never flinch from the duties or the dangers of any station to which she will call me. I have reliance upon *myself* (with God's blessing), and hope I have resources to bear the neglect or the rejection of my services by my country. If I should tell you that I dread infinitely more than I wish to be President, you would not believe me. But suppose it for a moment to be true. How could you advise me to act? Will you say it is very easy? Decline publicly to be a candidate? No. That would be political suicide. It would be to distrust myself and my country. It is my situation that makes me a candidate, and you at least know that my present situation was neither of my own seeking, nor of my choice. Of the public history of Mr. Monroe's administration, all that will be worth telling to posterity hitherto has been transacted through the Department of State. The treaties with Great Britain, with Spain, with France, and with Russia, and the whole course of policy with regard to South America, have been all under the immediate management of that Department. They are all events affecting not only the present

interests, but the future condition of this people. The acquisition of Florida and the extension of the territories of the Union to the Pacific Ocean have been accomplished through that Department, and the formal admission of our right to border upon the South Sea, both by Spain and Great Britain, has been first obtained, I might confidently say by me. That it has been obtained through the Department of State in Mr. Monroe's administration, is beyond the reach of contradiction or of events. As to the Treasury or War Departments, what single incident has occurred in this administration which will tell with credit to future ages? An army reduced to a peace establishment, and a Treasury reduced to loans in profound peace, form hitherto the only history of those two Departments under Mr. Monroe. And now, here at the heart of the Union, are two printing presses groaning under the columns of ribaldry and invective with which the chieftains at the head of those two Departments, through their respective partisans, are pelting each other in their rival race for the Presidency. They are at the same time, here or elsewhere, pelting at me too, merely to keep me out of the course.[1] So much for the *public* history of

[1] "A disposition to discuss has always characterized our government; but until recently an appearance of moderation has marked our discussions. Now our disposition to discuss seems to have augmented, and the spirit of conciliation has manifestly been abandoned by our councils. We are determined to say harsher things than are said of us, and to have the last word. Where this temper will lead us cannot be distinctly foreseen. . . . I have labored to restrain this predominant disposition of the government, but have succeeded only partially in softening the asperities which invariably predominate in the official notes of the State Department. If these notes had been permitted to remain as originally drafted, we should, I believe, have before this time been unembarrassed by diplomatic relations with more than one power. The tendency to estrange us from all foreign powers, which the style of the notes of the State Department has uniformly had, has been so often demonstrated, yet so often permitted, that I have almost given up the idea of maintaining friendly relations with those powers." *Crawford to Gallatin*, May 13, 1822. Adams, *Writings of Gallatin*, II. 241.

Mr. Monroe's administration. Now for its secret history. This has been one continued series of intrigues, from the Amelia Island expedition, to the senatorial *etiquette* and the Seminole war debates, down to Jackson's quarrel in Florida, and Jonathan Russell's duplicate, to bar my access to the next Presidency. All the leading members of both houses of Congress, all the editors of accredited printing presses throughout the Union, and all the caucussing managers of the state legislatures, have been engaged, each with his own views, and as retainers to their respective *patrons*, in crying me down and disgracing me in the estimation of the people. Meanwhile I have not a single active partisan in Congress; not a single printing press in pay or in promise; not one member of any one state legislature disposed to caucus for me, or connected with my interest by any stimulant expectation of his own. Do my friends in Philadelphia suppose me so totally blind to what is passing around me, as not to see what my situation is, or not to foresee what its result must be? Do they suppose that, while I see *all* the avenues to the temple preoccupied one by one, and a crowd rushing to the gate, already stifling one another, I expect to obtain admission by standing still? Or do they think me besotted enough to believe that I could, if I would, turn the current of public opinion in my favor by a week's visit to Philadelphia? Tell them that I am going by another road and to another temple. That if they must have a President to whom they dare speak, and if they dare not speak to me, they must vote for another man. That I am *not* bound to be President of the United States, but that I *am* bound to perform the duties of Secretary of State so long as I hold that office, and that Washington and not Philadelphia is the place where those duties must be performed.

. . . . . .

TO GEORGE MIFFLIN DALLAS

WASHINGTON, 9th October, 1822.

DEAR SIR:

I pray you to accept my thanks for your kind letter of the 4th instant and for its inclosure.[1] A ghost from the grave could scarcely have surprised me more than the reappearance of this departed offering of my prematurity. How it found its way among your respected father's papers I do not absolutely know, but can easily conjecture. Of its transmission to Philadelphia I have a very distinct recollection, and as you have taken the trouble of reading it, will bespeak as much more of your patience as may suffice for telling you how it happened.

Among the auditory who heard it delivered was the late Dr. Belknap, the historian of New Hampshire and author of *American Biography*. The very feature in its composition which you have noticed now, the earnestness of the plea in behalf of the public faith, attracted his attention then, and a few days after he sent me a letter requesting a copy of it for publication in a monthly miscellany, which was at that time published at Philadelphia, the title of which I have forgotten, but to which he informed me that he was a contributor.

Your memory will certainly remind you sufficiently of the flattering unction which is distilled from the earliest distinctions of boyish days to enable you to conceive that I had not the fortitude to resist this application, the more grateful to me as my oration had received already another, and a very different as well as unusual, distinction — that of a severe criticism in a public newspaper of the time.

[1] Adams' "Oration" at Commencement, 1787. See *Memoirs*, October 7, 1822.

My conjecture is that your father was the correspondent through whom Dr. Belknap contributed to the monthly magazine which I have mentioned, and that it was thus that this paper came to his hands. It was published in the magazine for the month of September, 1787, of which it is probable there must be copies yet existing at Philadelphia. Of the motives for preserving the manuscript after the publication it would be needless and perhaps fruitless to enquire.

Among the interesting casualties of my life to which this performance has given rise I shall yet long remember that your father did preserve it, and that at a distance of thirty-five years it was recommended by the very same internal proprieties to the favorable regard of Dr. Belknap and yourself.

I am, etc.[1]

TO ROBERT WALSH

WASHINGTON, 12th October, 1822.

DEAR SIR:

. . . . . .

My pamphlet was published by the printers at their own charge and if they can make any profit from it for their own

[1] At this time Jefferson believed the contest for the Presidency to have narrowed down to Adams and Crawford, and his sympathies were with the latter. Adams was "supposed to be a consolidationist," belonging to the new republicans, "preaching the rankest doctrines of the old Federalists." Crawford was "a republican of the old school, a friend to the constitutional organization of the government, and believing that the strength of the members can alone give real strength to the body. And this is the sentiment of the nation." *Letters to Lafayette and Gallatin*, October, 1822. *Writings* (Ford), X. 234, 236. Writing in August, 1823, to Samuel Harrison Smith he enlarges on this distinction, and says that with Adams he had had "a long acquaintance, but little intimate because little in political unison;" with Crawford, "a short but more favorable acquaintance because always in unison."

profit, I did not stipulate with them for a single copy, though they have sent me a small number which I have distributed among those of my friends who might take particular interest in the subject. As the publishers took the circulation of the book upon themselves, I know not how it has happened that they have not yet forwarded the number of copies which they destined to Philadelphia. I should suppose that *in the way of trade* it would be for their own interest to take advantage of the *curiosity*, a remnant of which may yet tempt purchasers.

I had noticed in the *National Gazette* of the 8th the extract of my argument upon the *nature* of our fishing rights and liberties, and the *peculiar* character of the treaty of 1783. I approve altogether the omission from this extract of the sarcasm upon Russell's conceited ignorance in the assertion that before the revolution the king of England might by his prerogative have deprived us of the fisheries, *whenever and however he might think proper.* But should not your extract have begun by the paragraph itself of the note of 10th November, 1814, upon which the whole argument is founded? The extract begins by saying the only grounds upon which the fishing rights and liberties could be maintained were contained in the principle asserted by this PARAGRAPH, and the paragraph itself, which in the book immediately precedes, is omitted from the extract. Is it not thus a building erected without laying the corner stone? It would have added only one short sentence to the length of the extract, and the whole controversy is but the fruit of which that paragraph was the kernel.

I am exceedingly gratified with the opinion expressed in your letter; upon this publication, on the *occasional* part of which I would not wish to waste another thought, but of which, if I do not deceive myself, I may say in the words of

Junius, that "when the force and direction of personal satire is no longer understood, and when measures are only felt in their remotest consequences, it will be found to contain principles worthy to be transmitted to posterity." The great principle for which I hold myself responsible is that of the paragraph above mentioned, although, as you have seen, it was drawn up, proposed to the mission, and inserted in the note by and at the proposal of Mr. Clay. The more it has been contested the more deeply has the conviction of its soundness been rivetted in my mind. As to the *value* of the fishing liberties, I think we shall hear no more question about that. With regard to the navigation of the Mississippi and its worthlessness to the British, if their having finally given it up for *nothing* were not in all sober reasoning conclusive, I should see that some handle might yet be made of it to prejudiced minds. But I think to no others. I have received numerous and respectable notices from the western country, even from Missouri, that the subject there is well understood and viewed in its proper light. The attempts there and in Kentucky to suppress my side of the question, while they have disclosed more conspicuously the motives for bringing out Russell's letter, have been but very partially, if at all, successful to their ultimate object. At all events my defence and my arguments are now both before the public, and I surrender them to the animadversions of friend and foe and to the judgment of present and future times.

I am, etc.[1]

[1] "Mr. Jefferson returns his thanks to Mr. Adams for the copy of the Ghent Documents which he has been so kind as to send him. So far as concerns Mr. Adams personally, the respect and esteem of the public for him was too firmly and justly fixed, to need this appeal to them; but the volume is a valuable gift to his fellow citizens generally, and especially to the future historian whom it will enable to give correct ideas of the views of that treaty, and to do justice to the abilities with

TO STRATFORD CANNING

DEPARTMENT OF STATE,
WASHINGTON, 11 November, 1822.

SIR,

Your letter of the 25th ulto. having been laid before the President of the United States, I am directed to assure you of the disposition of this government to coöperate with that of Great Britain in every measure necessary for opening the commercial intercourse between the United States and the British colonies in America, upon principles of liberal reciprocity.

This policy was manifested in the act of Congress, passed at their last session, authorizing the President by anticipation to open the ports of the United States to British vessels from the ports of the British colonies in the West Indies, which might, in the interval before the next session of Congress, be opened to the vessels of the United States.

It was equally manifested by the executive government, when immediately after receiving advice of the passage of the act of Parliament of the 24th of June last, "to regulate the trade between his Majesty's possessions in America and the West Indies, and other places in America and the West Indies," the proclamation was issued on the 24th of August; wherein, by a liberal construction of the act of Congress of the 6th of May, the ports of the United States

which it was negotiated," October 23, 1822. Ms. "The Treaty of Ghent forms a prominent epoch in our national history, and will be a lasting monument of the ability and patriotism with which it was negotiated. Incidents elucidating the transaction cannot therefore but be interesting, and they are made the more so by the eloquent strain in which they are presented. Accept my thanks, Sir, for the little volume containing them, with assurances of my continued esteem and cordial respects." *Madison to John Quincy Adams*, October 24, 1822. Ms.

were opened to British vessels coming from any of the ports of the British colonies in America, which by the act of Parliament were opened to the vessels of the United States.

But the authority of the President was limited by the act of Congress of the 6th of May last, to the opening of the ports of the United States to British vessels employed in the trade and intercourse between the United States and the British islands or colonies opened by the act of Parliament to vessels of the United States, subject to such reciprocal rules and restrictions as the President might by his proclamation make and publish, "anything in the laws, entitled an act concerning navigation, or an act entitled an act supplementary to an act concerning navigation, to the contrary notwithstanding."

The act of Congress does not authorize the President to extend to British vessels coming from the British ports in America, the privileges enjoyed by British vessels from the European British ports by virtue of the convention of 3 July, 1815; nor to remit duties levied upon British and all other foreign vessels not specially privileged by treaty or by mutual privilege sanctioned by law; nor to repealing discrimination prescribed by other acts of Congress than the two navigation acts above specified. The tonnage duty of one dollar, and the additional ten per cent upon the duties levied on importations in foreign unprivileged vessels, are prescribed by other acts of Congress, and are altogether independent of any restrictions which had been imposed on the commercial intercourse between the United States and the British colonies in America. They can be revoked only by the same authority by which they were enacted.

The act of Parliament does not extend to vessels of the United States, admitted by it into the colonial ports, the privileges secured to the same vessels entering the British

ports in Europe, by virtue of the convention of 3 July, 1815. It does not admit the vessels of the United States into the colonial ports on the same terms as they are admitted into the European ports. It admits them only on a footing of *exceptions* to a general system of exclusion, and under circumstances of strong and marked discrimination to the advantage of British vessels, with which they must encounter competition in the same intercourse. Their admission is only to certain enumerated ports. They are permitted to introduce only certain enumerated articles from which are excluded many of the most essential articles of the produce of the United States, and most needed in the colonial ports. They are admitted only to a direct trade, both from the United States to the enumerated ports, and from the enumerated ports to the United States. They are subjected to the payment, without credit and before admission, of duties in many cases almost equivalent to prohibition; and to a very heavy *export* duty, in addition to the duties prescribed by the act of Parliament. Nor does it appear that, with regard to the important article of port charges, they can claim admission upon the same footing as British vessels. To counteract these disadvantages, under which they must submit to enter in competition with British vessels employed in the same navigation, the regulations prescribed in the proclamation, and the additional tonnage and other discriminating duties provided by the laws of the United States, are surely not more than sufficient. Nor can the United States in imposing discriminations, the *effect* of which will be to restore to their own vessels that *equal advantage of competition*, of which they would be deprived by discriminations operating against them, be confined to the mere *specific* counterparts of restrictions instituted by the other party to the commerce. Had they

been so confined, they might have designated a specific list of articles to be admitted from all the British colonies; and, besides subjecting them to duties nearly prohibitory, might have excluded the article of flour, for example, from the list.

The colonies of Great Britain in the West India islands are, in respect to every article of commerce and navigation, as distinct from these in North America, as any two nations are from each other. Separated by an ocean, and having scarcely a single article of commercial interchange in common, the productions of neither can, in the natural course of trade, be objects of export from the other. Instead therefore of excluding from admission all the articles of the produce of both, with the exception of a small enumerated list, the proclamation has authorized the general admission of all the articles from either of its own natural growth or produce, excluding only the admission from either, of those articles which it never could export, but in consequence of their having been before imported to it from abroad.

On the first perusal of the act of Parliament for opening the colonial ports, it was perceived that, to the satisfactory accomplishment of the objects interesting to the commercial intercourse between the United States and the British colonies in America, which it was believed to be the intention of its enactment to promote, a further free communication and understanding between the two governments would be necessary. The proclamation was forthwith issued, commensurate with the authority given to the President by the act of Congress, understood in the most enlarged import of the words in which it was given. And by an immediate instruction to the minister of the United States at London, he was empowered to make known to your government, as well the disposition of this country to meet with

fair and equal reciprocity, this and any overture on the part of Great Britain, for opening the commercial intercourse between the United States and the British colonies in this hemisphere, as the conviction of this government that further measures on both sides would be indispensable, to obtain that result in a manner satisfactory to both. That they may be adopted in concert, either by further legislation, or by convention, is referred to the consideration, and submitted to the option of your government.[1]

I pray you, etc.

TO JOSEPH HOPKINSON

WASHINGTON, 19th November, 1822.

DEAR SIR:

. . . . . .

Perhaps I ought also to thank you for your friendly admonition upon the severity with which I have handled my adversary. It is not in my nature to war with the dead, or to mutilate the corpse of an enemy. If I have suffered my resentment to transport me beyond the bounds of moderation, I must be content that so much should be deducted from the amount of my victory as may offer an atonement to my friends and my country for my portion of the wrong. I take no pleasure in the triumph over a man whom for many years I had considered and treated as a friend. But was it possible to manage this discussion without making it per-

[1] On the same date, November 11, George Canning wrote a dispatch to Stratford Canning calling attention to certain points of the President's proclamation, especially, "the absence of any permission to British ships to export from the United States those articles of which our law allows the export on American ships."

sonal as respected him? Was it possible to expose the substitution of the duplicate for the original letter, and yet to profess respect for the integrity or regard for the character of the perpetrator? In combating errors of opinion merely or political prejudices, however mischievous, I acknowledge the duty and well understand the policy of sparing the person; but where perverseness of intellect has been only the pander to turpitude of heart, how shall Christian meekness itself speak its feelings but in the language of indignation? Such is the reasoning by which I justify to myself that part of my book which cooler judges ascribe to irritation of temper. On the general principle that the coolest is the most correct judge, I am disposed to acquiesce in your opinion and to plead only in mitigation.

The national politics of Pennsylvania with reference to the present administration are sound. With regard to the future I presume they are intelligible to those who manage them. An interest prematurely excited and growing from day to day more intense there as elsewhere, is fixing upon persons and not upon principles as the rallying points for settling the succession to the chief magistracy. I say upon persons and not upon principles, because, although there is a great effort making to revive a strife of principles which did heretofore exist, yet there is and will be no contest of principles to operate upon measures. They will only be brought into play to operate upon men. The sympathies of Pennsylvania so far as they have been hitherto disclosed seem to lean to the south, and to be divided only as the south is divided against itself. Whether a coalition with the west would not be more congenial to her own interest and more suitable to that of the Union, she is best able to judge for herself. The west is also divided and will most probably be so to the end. Pennsylvania will ultimately conclude to go

with the majority and if possible to *make* the majority. Her policy therefore is to keep her vote in reserve, and those who have been in such haste to commit her have been playing their own game much more than hers, but most especially the game of him against whom they have been inveterate. It appears in short to me to be on all sides a game of blindman's buff, and I am utterly unable to divine whose turn it will next be to step into the ring. Mrs. Adams desires to be affectionately remembered to your lady and family and is in eager expectation of the pleasure of seeing Miss Hopkinson here. She was so much delighted with her visit to Borden Town that the remembrance of it yet enlivens the present and will long cheer the future hours of her existence.

The long expected race of the Northern and Southern coursers has terminated in disappointment.[1] The horse of the challenger by some accident had been lamed. He was brought upon the course only to be withdrawn from it and the forfeit was paid, but as the lameness was not perceptible to unpracticed eyes, he was injudiciously again brought out by his owner to run a single heat of four miles for 1000 or 1500 dollars, and was completely broken down in the attempt — totally and centrally *eclipsed*.

I am, etc.

[1] Sir Charles, of Virginia, against Eclipse, of New York, both having as grandsire an imported horse, Old Diomed.

TO ROBERT WALSH

WASHINGTON, 27 November, 1822.

DEAR SIR:

I thank you for the very friendly sentiments expressed in your letter of the 23rd instant. The success of your paper, and its increasing influence upon the community the evidence of which it bears upon its face, are circumstances exceedingly gratifying to me for many reasons, the first of which is the liberal dependence and prosperity which it ensures personally to you. The next is its tendency both direct and derivative to raise the character moral and literary of the periodical press in our country. A newspaper edited by an accomplished classical scholar, the fruits of whose studies have been matured by travel and by long converse with many of the most enlightened minds in Europe, must have a great and salutary influence on the community. Not so much perhaps upon the quotidian conflicts of political electioneering, as upon the tone of sentiment which counteracts debasing prejudices and finally settles into sound and useful principle. Such a paper has not only a powerful effect upon the public mind itself but has a tendency to raise the character of its competitors. It accustoms the mass of its readers to think and reason with just and generous views. It exposes sordid purposes lurking under a mask of benevolence or patriotism. It holds up to the nation that image of the *fair* and the *good* which alone can constitute public virtue. Such it appears to me is the general tendency of your paper, and by this you will not understand that I concur in all its doctrines or approve all its sentiments. I have regretted some of your editorial controversies, and none more than those in which you have

been involved by your good will to me. You have for example handled rather roughly the editor of the *Boston Daily Advertiser* and judged, may I not say, *hastily* of the character of the paper itself. Hale, its editor, is a man of talents and of respectable standing, and personally not unfriendly to me. But he is not so independent as you are, and his attacks upon me were instigated from quarters where he was bound to please. I ought not perhaps to be his apologist with *you*, but I regret to have been the cause of mutual irritation and severe judgments between men who ought to esteem each other.

Your motto is very properly "Principles and Men," but you have scarcely taken any part in the electioneering politics of Pennsylvania, and it may perhaps be your wisest policy to take as little interest in the struggle of electioneering which already rages for the next Presidency. You are not yet so committed but that you can assume and maintain an honorable neutrality upon that question and upon everything appertaining to it. For the partiality which you have already manifested in my favor I am fully and justly sensible, but I can ask neither you nor any man to expose himself to the obloquy which will befall him by avowing himself as politically my friend for the next two years.

"Abuse on all he loves or love him, shed," is the destiny to which my mind must be made up, and although myself cast into a position from which I cannot be honorably withdrawn, and in which I must endure whatever the day and the hour may bring forth, I have not the heart to ask any one of my friends to make himself the mark to be shot at by my side, or to share with me in the strife merely to be the witness and partaker of my discomfiture.

The occasional notice which you have taken of the principal artificers of falsehood against me in the presses of the country has been sufficient for their exposure. But your

prediction that I should be the choice of the universal Yankee Nation was much hazarded in point of fact, and perhaps questionably in point of principle. I have no more certainty of being the choice of the Yankee than of the Virginia Nation. I have been too much and too long the servant of the whole Union to be the favorite of any one part of it. The whole course of my public life has been that of crossing partial interests whether sectional, political or geographical. I have lived but little in my own state, and during that little have been in conflict with all its leading statesmen of both parties. For the honors bestowed upon me and the public trusts committed to me I have been entirely and spontaneously indebted to the Virginian Presidents, from all four of whom I possess testimonials of personal esteem and confidence more gratifying to me than any office that ever was in the gift of any one of them. Prejudices in *me* therefore against Virginia would add the crime of ingratitude to the wrong of illiberality. I have none. I never sacrificed a sentiment of my heart nor an opinion of my judgment to Virginia, nor was any such sacrifice ever required of me. My relations with all her Presidents have been those of independence, candor, and confidence. I have experienced nothing else from them, and even now if those of them who survive and the state itself with all its influence throughout the Union should prefer another person for the succession to the chief magistracy of the Union, however I might regret the preference I should have no right to complain of the partiality.

As to the *late* calumnies against me in the *Washington City Gazette*, presuming from the characteristic epithet in your letter that you have been informed who that author is, I suppose you also know the same which metamorphosed him into the editor of that paper,[1] that is in his sober inter-

[1] Jonathan Elliot.

vals. The two falsehoods in which the names of General Vivés and Mr. King were introduced were not more flagrant than numberless others, but they were selected for contradiction because they implicated those gentlemen little less than myself. They have nevertheless been and continue to be repeated with an impudence that defies all contradiction. The peculiarity of the story about Vivés is that it is falsified by the public documents themselves. The very letter which it asserts to have been cancelled or suppressed is a letter of 3 May, 1820, which was not only sent to him, but with his answer dated two days after and a reply of 8 May from me was communicated to Congress by a message from the President of 9 May, and published in many of the newspapers of the time, among the rest in the *National Intelligencer.*[1] There never was any letter from me to General Vivés communicated to him and afterwards withdrawn, cancelled or altered. Nor did he ever say a word to me that any human being in his senses could understand or construe into a threat. I suppose you see that the motives for imputing to me personal cowardice is by way of set-off.

I have answered you with frankness equally explicit and confidential upon all the subjects touched upon in your letter. To whatever extent the system of *espionage* may be carried in this electioneering warfare, I trust I shall never have the need or the inclination to deny my correspondence with you. The more intimate it is, the more consolation will it afford to me; for if on either side it should contain anything which we may wish to conceal from the eyes of slanderers and assassins, sure I am that there will be nothing which either of us would wish to screen from the sight of God.

I am, etc.

[1] May 11, 1820.

TO THE EDITORS OF THE NATIONAL INTELLIGENCER

GENTLEMEN:

In your paper of yesterday I have observed a note from Mr. Henry Clay which requires some notice from me.

After expressing the regret of the writer at the unhappy controversy which has arisen between two of his late colleagues at Ghent, it proceeds to say that in the course of the several publications of which it has been the occasion, and *particularly* in the appendix to the pamphlet recently published by me, "he thinks there are some errors (no doubt unintentional) both as to matters of fact and matters of opinion, in regard to the transactions at Ghent relating to the navigation of the Mississippi and certain liberties *claimed* by the United States in the fisheries, and to the part which he bore in these transactions."

Concurring with Mr. Clay in the regret that the controversy should ever have arisen, I have only to find consolation in the reflection that from the seed time of 1814 to the harvest of 1822 the contest was never of my seeking, and that since I have been drawn into it, whatever I have said, written, or done in it has been in the face of day and under the responsibility of my name.

Had Mr. Clay thought it advisable now to specify any error of fact or of imputed opinion which he thinks is contained in the appendix to my pamphlet, or in any other part of my share in the publication, it would have given me great pleasure to rectify by candid acknowledgment any such error, of which, by the light that he would have shed on the subject, I should have been convinced. At whatever period hereafter he shall deem the accepted time has come

to publish his promised narrative, I shall, if yet living, be ready with equal cheerfulness to acknowledge indicated error and to vindicate contested truth.

But as by the adjournment of that publication to a period "more propitious than the present to calm and dispassionate consideration, and *when there can be no misinterpretation of motives*," it may chance to be postponed until both of us shall have been summoned to account for all our errors before a higher tribunal than that of our country, I feel myself now called upon to say that let the appropriate dispositions, when and how they will, expose the open day and secret night of the transactions at Ghent, the statements both of fact and opinion, in the papers which I have written and published in relation to this controversy, will in every particular, essential or important to the interest of the nation or to the character of Mr. Clay, be found to abide unshaken the test of human scrutiny of talents and of time.[1]

Washington 18th December, 1822.

TO THE FREEHOLDERS OF WASHINGTON, WYTHE, GRAYSON, RUSSELL, TAZEWELL, LEE AND SCOTT COUNTIES, VIRGINIA [2]

Friends and Fellow Citizens:

By these titles I presume to address you, though personally known to few of you, because my character has been arraigned

[1] "The insinuations of Mr. Clay are manfully met by Mr. Adams; and I am mistaken if in public opinion Mr. Clay is not placed in a situation that may be found a little embarrassing. The Kentucky Candidate should have strictly adhered to his game; *agere non scribere* was his course, and he has been off his guard to depart from it." *Rufus King to Charles King*, December 19, 1822. *Life and Correspondence of Rufus King*, VI. 488. See Clay's reasons for his position in Colton, *Life, Correspondence and Speeches of Clay*, IV. 70, 72.

[2] This letter appeared in the *Richmond Enquirer*, January 4, 1823, and was after-

before you by your representative in Congress in a printed handbill, soliciting your suffrages for re-election, who seems to have considered his first claim to the continuance of your favor to consist in the bitterness with which he could censure me. I shall never solicit your suffrages, nor those of your representative for anything; but I value your good opinion and wish to show you that I have not deserved to lose it.

He says that if you will elect him once more, he shall have served during the whole administration of Mr. Monroe, an administration upon which he passes a high panegyric, and which, he adds, he has found it agreeable to his judgment generally to support. While in the exercise of my natural right of self-defense I come to repel the charges of General Smyth, I pray you to understand, that it is neither for the purpose of moving you to withhold your vote from him, nor to induce the General himself to reconsider his opinion or his intentions as they personally concern me. He offers himself a candidate for your votes, as having been generally hitherto a supporter of the administration of Mr. Monroe. On that ground and upon the reasonable expectation that he will continue his support to it, he has my sincere and warm wishes for his success. But as to his opinion of me, you will permit me to be indifferent to the opinion of a man capable of forming his judgment of character from such premises as he has alleged in support of his estimate of mine.

His mode of proof is this. He has ransacked the Journals of the Senate during the five years that I had the honor of a seat in that body, a period, the expiration of which is nearly fifteen years distant; and whenever he has found in the list of yeas and nays my name recorded to a vote, which he disapproves, he has imputed it, without knowing any of the grounds upon which it was given, to the worst of motives, for the purpose of ascribing them to me. Is

wards published by Gales and Seaton in a pamphlet, *Letter of the Hon. John Quincy Adams in Reply to a Letter of the Hon. Alexander Smyth to his Constituents. Also the Speech of Mr. Adams on the Louisiana Treaty, and a Letter from Mr. Jefferson to Mr. Dunbar relative to the cession of Louisiana.*

this fair? Is it candid? Is it just? Where is the man who ever served in a legislative capacity in your council, whose character could stand a test like this? The General once petitioned the members of a former Congress "to be mindfull of the rule of justice — to others do, what to thyself thou wishest to be done."

But it is to his charges against me that I would turn your attention. And first of that which he says he passes over, but does not pass over: my relation to my father. If the General could have found any of my *votes* upon the public journals during the administration of my father, he might perhaps have used them as he has those of a later date. But during the whole of my father's administration I was absent from the country. For how much of my father's acts I am accountable, I leave to your sense of justice to determine; as I leave to the filial affection and piety of every one of you to estimate the temper of the reproach that I have never been the reviler of them.

Another charge which the General brings against me, while professing to pass it over, is that I have written against the *Rights of Man;* not only, he says, against the work thus entitled, but against the rights themselves. This is a mistake. I wrote a series of papers containing an examination of some of the doctrines in Thomas Paine's pamphlet entitled the *Rights of Man.* I believed many of its doctrines unsound. I think I have not seen either the pamphlet or my examination of it for more than thirty years. In that time I claim not more indulgence for changes of opinion with regard to the principles of government and to the French Revolution than may be fairly claimed by any man. Far from having written against the rights of man, I appealed, in the papers alluded to, from what I deemed the inflammatory principles of Paine to the sober and correct principles of our own declaration of independence. My opinion of Paine and his writings was not then very exalted. They have not since that time risen in my esteem. As occasional addresses to popular passions, I see in all his works the flashes of a powerful genuis. Acknowledging the service of his *Common Sense* and some other of his writings during our revolu-

tionary war, all his subsequent publications, political, religious, and personal, are in my opinion worse than worthless. The two parts of his *Rights of Man* are characteristic of the same mind, and indicative of the same soul, as the two parts of his *Age of Reason*, and all proceeded from the same heart as his letter to Washington. The last three of these pamphlets I am sure few of you would now read with any other sentiments than those of abhorrence and disgust. They are rapidly passing into oblivion, and the sooner they are forgotten, the more propitious will it be to the cause of virtue. The world will lose nothing should the two others be forgotten with them. In entertaining these sentiments it is certainly with all the regard and veneration due from me to Mr. Jefferson, as to one of the men to whom the nation owes its deepest debt of gratitude. I am charged by General Smyth with an attempt to ridicule Mr. Jefferson. An expression, distorted and misrepresented in the kennel newspapers of the present day, is the support which the General has for this accusation. Of that expression and of the cause from which it proceeded, I will not now speak. If the animosities of political contention are not to be eternal, it is time to consign that subject to silence. But I address you in the face of our common country, and I hope and trust this paper will pass under the eye of Mr. Jefferson himself. I say, without fear of being disavowed by him, that he will not approve of the use of his name by any one for the purpose of casting odium upon me. And I take this opportunity to add that I deprecate with equal earnestness the unauthorized use by any one of his name to obtain favor of any kind for me.

But advancing from these skirmishes of the General's wit to meet him in his main army. He objects to me that I am "no statesman." To this you will not expect me to reply. But he adds, "that the pernicious passions warp my judgment, and do not leave my mind in a proper state to decide on the interest of a nation and to adopt an enlarged and liberal system of 'policy.'" This is a serious charge. But the votes upon which General Smyth has passed so severe a sentence upon my character, were all given

in the interval between October, 1803, when I first took my seat in the Senate, and December, 1805. At a distance of seventeen or eighteen years it can scarcely be expected that I should be able to recollect, and still less to prove the motives or the reasons upon which every one of those votes was given; but I will show to your satisfaction that all of them were founded upon reasons very different from any which could originate in the motive charged upon me. And after assigning those reasons I will leave it to your candor to determine, whether they were of so weak a texture that they can be attributed to no other than factious motives.

The first was on the 26th of October, 1803, upon a bill enabling the President to take possession of Louisiana, against which General Smyth says, I voted in a minority of six. Upon recurring to a private minute of my own made at the time, I find the following remark: "*The objection was to the second section as unconstitutional.*" [1]

To enable you to judge of the sincerity with which I voted upon that principle against the bill, I beg leave to submit to your meditations the section against which the objection was taken.

> And be it further enacted, that until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, *all the military, civil and judicial powers* exercised by the officers of the *existing government* of the same shall be vested *in such person and persons*, and shall be *exercised in such manner, as the President of the United States shall direct*, for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion.

Let me ask you before we proceed further to stop here, to reflect well upon the extent and consequences of the power conferred in this section by the Congress upon the President of the United States, and point out to me the article, section, and paragraph of that instrument, which authorize the Congress to confer upon the President of the United States this tremendous power. If you

[1] Adams, *Memoirs*, October 26, 1803.

can produce it now, I will plead guilty to General Smyth's charge of factious motive for voting against this act; but if you can produce it now, it is more than the majority were able to do then. They were called upon to produce it and could not. They could find it only in *construction*.

Observe that I do not now deny the existence of this authority in the constitution. But it is a *constructive* power, and at the time when I was called upon to record my vote upon it, the question was new to me and new to Congress, with reference to the legislative exposition of the constitution. The principle had not been settled, and it was the first time it had ever been made my duty to act, as a member of the legislature, upon a question involving the extent of the powers of Congress. I believed, as I still believe, that the constitution of the United States was a constitution of limited powers. That some of those powers must be *constructive* I never doubted; but that this construction must itself have some limits I was equally convinced; and I could not reconcile it to my judgment that the authority exercised in this section was within the legitimate powers of Congress, conformable to the constitution. Were the question now a new one, I have no hesitation in saying that I should retain the same opinion and give the same vote. And I am willing now to record it again; and to leave to my country and to posterity the opinion, that all the other constructive powers assumed by Congress from the 4th of March, 1789, to this day put together, are, whether considered in themselves or in their consequences, unequal to the transcendent power assumed, exercised and granted by that little section.

It was on the same principle a conscientious belief that Congress had not by the constitution the power to exercise the authorities contained in them, that in the course of the same session I voted against the other acts relating to Louisiana, enumerated in General Smyth's address to you. They formed altogether a system of absolute and unlimited power, bearing upon the people of Louisiana, and exercised by the Congress of the United States. I believed that the power had not been granted to Congress, either by

the people of the United States, or by the people of Louisiana: and when it was assumed by *construction*, I could not perceive *any* limitation to the constructive power which could be *consistently* maintained by those who could find in the constitution of the United States authority for the exercise of all these powers in Louisiana.

General Smyth therefore has done me great injustice in drawing from these votes the conclusion that I was governed in giving them either by principles of faction or by hostility to Louisiana. It is well known to all those with whom I acted at the time, as well those whose votes concurred with mine, as those who sanctioned by their votes these assumptions of constructive powers, that my voice and opinion were *in favor* of the acquisition of Louisiana, and of the ratification of the treaty by which it was acquired. The power *to make treaties* is by the constitution given to the President with concurrence of two-thirds of the Senate present upon the question for their advice and consent, *without limitation*. It extends to whatever can form the subject of *treaties* between sovereign and independent nations. Of the power to make the treaty, therefore, I had no doubt, as having been granted by the constitution. But the power to make a treaty, and the power to carry it into execution, are, by the organization of our government not the same. The former is merely a transaction with a foreign nation. To have limited that would have been to limit the power of the nation itself, in its relations of intercourse with other states. It would have been an abdication by the nation itself of some of the powers appertaining to sovereignty, and have placed it on a footing of inequality with other sovereigns. But the latter, the power to carry a treaty into execution, imports the exercise of the internal powers of government and was subject to all the limitations prescribed by the constitution to the exercise of these powers. In the very message by which President Jefferson communicated this treaty to Congress after its ratifications had been exchanged, he said: "You will observe that some important conditions *cannot be carried* into execution but with the aid of the

legislature." This is a circumstance common to many treaties, and has frequently given occasion to debates in the House of Representatives, how far they are bound to sanction in their legislative capacity stipulations with foreign nations, solemnly made and ratified by the treaty making power. But the Louisiana purchase treaty did, in my opinion, to be carried into execution require something more. It required the exercise of powers which had not been granted to Congress itself, of powers reserved by the people of the United States to themselves, and of powers inherent by natural right in the people of Louisiana. The union of the two people required the express and formal consent of both. So far as the rights of France were concerned they had been extinguished by the treaty. To appropriate and pay the money stipulated for the purchase of the territory I believed to be within the legitimate power of Congress, though even that was a constructive power. But that the social compact with all its burdens and all its blessings, all its privileges and all its powers, should be formed between the people of the United States and the people of Louisiania was, according to the theory of human rights which I had learned from the declaration of independence, an act, the sanction of which could be consummated only by themselves. The people of the United States had not, much less had the people of Louisiana given to the Congress of the United States the power to form this union. And until the consent of both people should be obtained, every act of legislation by the Congress of the United States over the people of Louisiana, distinct from that of taking possession of the territory, was in my view unconstitutional, and an act of usurped authority. My opinion therefore was that the sense of the people, both of the United States and of Louisiana, should immediately be taken; of the first, by an amendment to the constitution, to be proposed and acted upon in the regular form; and of the last, by taking the votes of the people of Louisiana immediately after possession of the territory should be taken by the United States under the treaty. I had no doubt that the consent of both people would be obtained with as much ease and with little more

loss of time than it actually took Congress to prepare an act for the government of the territory: and I thought that this course of proceeding, while it would terminate in the same result as the immediate exercise of ungranted transcendental powers by Congress, would serve as a landmark of correct principle for future times, as a memorial of homage to the fundamental principles of civil society, to the primitive sovereignty of the people and the unalienable rights of man.

Entertaining these questions, on the 3d of November, 1803, I voted with the majority for the bill appropriating eleven million two hundred and fifty thousand dollars, to carry into effect the Louisiana convention; and in a speech to the Senate upon the passage of that bill the substance of which is printed in the *National Intelligencer* of 25th November, 1803, declared at once my approbation of the measure, and my belief that, to carry the treaty into entire execution, an amendment to the constitution would be necessary. My vote on this bill is recorded in the same journals of the Senate to which General Smyth has resorted to find his charges against me; but he has not thought proper to notice either that, or the printed speech which, if known to him, leaves him without excuse for representing to you my votes upon the other bills of that cession relating to Louisiana, as having been dictated by the spirit of faction, or by hostility to Louisiana.

On the 25th of November, 1803, as appears by the same journals of the Senate, I moved for the appointment of a committee to enquire whether any, and if any, what further measures were necessary for carrying into effect the Louisiana cession treaty; with leave to report by bill or otherwise. In support of this motion I stated explicitly that the object of it was that the committee should prepare and report for the consideration of the Senate an amendment to the constitution and a bill prescribing the form in which the sense of the people of Louisiana should be taken, to sanction in the only form in which I conceived it could lawfully be accomplished, the union of the two people into one, the annexation of the inhabitants of Louisiana to the North American Union,

and the accession to all the rights, privileges, and prerogatives, and their subjection to all the duties of citizens of the United States. On the exposition of these objects for the motion the Senate did not think proper to appoint the Committee which I proposed; and the only opportunity left me for recording the principles upon which I acted, was by offering the resolutions which I did on the 10th of January, 1804, and by voting against all the acts of Congress, legislating upon the people of Louisiana during that session.

Let me repeat that all these questions as to the extent of the powers of Congress were at that time new and unsettled. In forming my judgment upon them I had recourse only to the faculties of my own understanding, to the letter of the constitution, to the first principles of society and government as recognized in our republican institutions, and to the light of the discussions in both houses of Congress upon that occasion. There was no precedent upon the record. The annexation of a foreign people to the North American confederacy formed a new era in our national annals. The principles upon which that great change in our condition was to be effected, and the forms by which it was to be made lawful, conformably to the true theory of human rights, involved considerations of a magnitude of which we are not all yet aware. The laws of that session relative to Louisiana have very recently been followed as precedents in the annexation to this union of the territory and people of Florida. In the perfectly regular exercise, and for purposes of the most rigorous justice, of powers identical with those assumed and granted by that little section which I have quoted, you have recently witnessed scenes against which the halls of Congress, the streets of your cities, the summits of your mountains, and the echoes of your valleys have resounded with clamors of violated rights and unconstitutional acts of despotism. It was not in the exercise by General Jackson in 1821, of powers so incompatible with all our institutions, it was in the assumption and grant by Congress of those powers in 1803, that the real constitutional question was involved; and it is no small satisfaction to me that I am enabled to refer you to those very votes which General

Smyth imputes to unworthy motives, for proof that, from the first day that I was called to act in your public councils, I have held the government of your Union to be a government of limited powers, that Congress could not lawfully exercise any powers not granted to them by the people in the constitution, and that powers in themselves of a transcendental nature, cannot be assumed by *construction* as incidental to expressed powers of apparent import so much more limited than themselves.

Among the citizens who in 1803 and 1804 voted for all these laws relating to Louisiana, there were some who, upon questions of far inferior magnitude, according to my conception, have been less liberal in their indulgence to constructive powers. It is not for me either to question their motives or to reconcile their opinions with themselves.

After those questions had been settled by large majorities of both houses of Congress, and sanctioned by the acquiescence of the people, both of Louisiana and of the United States, I have considered them as no longer controvertible. But the consequences of the principles then settled, and by those very acts against which I voted, have been as yet but very imperfectly developed. When the day shall come for your representatives to determine whether the territories of Ceylon or Madagascar, of Corsica or of Cuba, shall be governed by rules and regulations emanating from your Congress; whether the inhabitants of those *territories* shall be governed for a discretionary time by such persons and in such manner as the President of the United States shall direct, and whether their *people* shall ultimately be constituted into states, represented upon the floor of your national legislative assemblies; then will be the time for discovering in distant perspective the full import and final consequences of that second section of the act for taking possession of Louisiana.

Let me again remind you that the question is not of the advantage to the Union of the acquisition of Louisiana, nor even of the powers of Congress as they are now established by the construction then given to the constitution. The question is, whether

my motives *must* have been factious or anti-republican, because I believed that the constitution of the United States had not authorized the Congress to invest the President with all the absolute powers of a Spanish monarch over a Spanish colony; to annex the people of that colony to our federal union, and to give them without naturalization, and to thrust upon them without their consent, all the rights, privileges and immunities, duties and burdens of the constituent members of the confederation.

It was upon similar principles fortified by additional considerations that I gave the two votes, from one of which General Smyth thinks he has fixed me in a dilemma, either of acknowledging myself *a friend to the slave trade*, or that I was desirous to render the acquisition of Louisiana injurious, by permitting the unrestrained influx of foreign slaves; while upon the other he denies me the benefit even of this sorry dilemma, but takes it for proof *unquestionable* that I am a friend to the slave trade.

The first of these votes, given on the 20th of January, 1804, was against a clause which forbade the importation of slaves into Louisiana from places without the United States. The second, in December, 1805, was against bringing in a bill to prohibit, after the 1st of January, 1808, the importation of slaves into the United States.

It will be recollected, that in the constitution of the United States, there is a clause in the following words: "The migration or importation of such persons as any of the states now existing shall think proper to admit, *shall not be prohibited by the Congress* prior to the year 1808." The votes which General Smyth wishes now to blacken with slave trade complexions, were given in January, 1804, and December, 1805, two and four years before this express interdiction upon the power of Congress expired. At both these periods the importation of slaves from abroad was permitted by the laws of Georgia, and I think of South Carolina. As to the first, setting aside the general objection that I had against the power of Congress then to legislate upon the people of Louisiana at all, of what avail was it to prohibit the importation of slaves

directly from abroad, while no prohibition could be enacted against importing them indirectly by the way of Charleston and Savannah? On both occasions I thought that Congress, by the terms of the constitution had no power to act. The limitation of the year 1808, by the express letter of the clause, bears not only upon the importation of the slaves, but upon the prohibitory power of Congress. It was my opinion that until the year 1808, Congress could not even pass the act of prohibition; and upon that principle I voted against leave to bring in the bill.

It is remarkable that the minority with whom I voted against the clause forbidding the importation of slaves from abroad into Louisiana, consisted of Mr. Baldwin and General James Jackson of Georgia, Mr. Bradley and Mr. Israel Smith of Vermont, and Mr. Ellery of Rhode Island. According to the logic of General Smyth, they were all in the same dilemma with me. They were all the most ardent republicans, and the most devoted friends to Mr. Jefferson's administration in the country; and Mr. Bradley was the man who, in December, 1805, moved for leave to bring in the bill to prohibit the slave trade after the 1st of January, 1808, who actually brought it in, and at the succeeding session of Congress carried it through the Senate. Upon the question for leave to bring in the bill, I voted against it, thinking that the letter of the constitution forbade Congress from acting on the subject before 1808. But the principle having been settled, that the prohibition might be enacted in anticipation, though not to take effect till 1808, I voted for the bill itself, when it passed in January, 1807.

Upon reviewing all these votes now, the only one upon the correctness of which I feel a diffidence is that of December, 1805, against leave to bring in a bill. It was a question, not upon an ungranted, but upon an interdicted power. Inclining always against the assumption by Congress of any power not clearly granted, perhaps I indulged unnecessary scruples against that of a power expressly forbidden. Had the temper of the times, in relation to the slave trade, been in 1805, when the bill was brought

in, the same as it had been in 1787, when the interdiction of the power of prohibition to Congress was inserted in the constitution, I have little doubt that the construction of the clause upon which I voted would have been held to be the only one of which it would fairly admit. But in the interval a great and happy change of the public mind had taken place. The slave trade, which in 1787 had been renewed as a privilege too precious to be submitted even to the prohibitory power of Congress, in 1805 had palled upon the taste, and become an object of general abhorrence and disgust even to those whose interests and desires the original interdiction had been conceded, were willing to forego the remnant of benefit which they might have claimed from it and to join two years before its time in prescribing that prohibition, which until then could not be carried into effect. But if I, from an overweening scruple against the exercise of a power one day before it became unequivocally lawful, am to be doomed as unquestionably a friend to the slave trade, what is to be said of these patriots and sages with Washington at their head who, in 1787, expressly denied to Congress for twenty years, the power of prohibiting this flagitious traffic at all?

A vote upon another grave subject is charged upon me as evidence of my hostility to the republicans, a vote against *wearing crape* one month, in memory of Samuel Adams and Edmund Pendleton, two of the most distinguished friends of *virtue and liberty*.

My objection to it was as a precedent. On the same day an unanimous vote had passed to wear crape for one month for Stevens Thompson Mason, a member of the Senate, then recently deceased. As a usual compliment to a member of the body, I had assented to this. But when on the same day, a resolution was offered to wear crape for another month for two persons, neither of them a member of the body and out of the usual course of proceedings, its obvious tendency was to introduce a practice of passing such resolutions upon the decease of every eminent man in the Union. It had the appearance, too, of a disposition to offer

them by pairs from different sections of the Union, and of leading to discussions of comparative merits, and to disquisitions upon characters, neither suitable to the time nor the place. The characters of Samuel Adams and Edmund Pendleton were venerable and illustrious; but others equally distinguished had died without that sort of notice which the example, once given, might and probably would be demanded for others less meritorious until it should lose all value as an unmeaning formality. These were the motives upon which I, with a very respectable minority, voted against that resolution, and although a majority voted for it because they thought a rejection of it, after it was once offered, would have appeared disrespectful to the persons whom it was then especially intended to honor, I have reason to believe that they were convinced by the result of that day's debate, that it would be advisable to offer no more such compound resolutions, and that this mode of political canonization, if ever proper, should be reserved for characters of at least solitary splendor, and with regard to whom there would be neither need nor disposition to take the question by yeas and nays.

General Smyth finally charges me with having, as a Senator, denied protection to commerce, and seeking as usual a culpable motive for what he otherwise cannot account for, he imputes it to an unwillingness that the republican administration should have the credit of affording protection to commerce. His proofs are, that in March, 1804, I voted for striking out of the "Act further to protect the commerce and seamen of the United States against the Barbary Powers" the clause imposing the duty called the Mediterranean fund, and finally against the act itself.

My recollections respecting this act, and my reasons for my votes upon it, are less clear and distinct than with regard to any of the others pointed out by the General for your reprobation; because, in the other cases I not only voted, but took an active part in the debates. In this I gave only silent votes, according to the conviction of my judgment and upon the strength of arguments urged by others. I well remember, however, the principal

objections against the Mediterranean fund clause, and against the act itself.

By the first section of the act an *additional* duty of two and a half *per cent ad valorem* was imposed upon all goods, wares and merchandise imported, which were already charged with ad valorem duties. It was contended that this indiscriminate augmentation of duties upon one class of merchandise, many articles of which were already burthened with charges as heavy as they could well bear, would operate very unequally and inequitably upon different portions of the Union; that the funds ought to be raised by specific impositions upon specific articles, or by some other mode of taxation. The details of the debate are not present to my memory; but this was the substance of the objection to the tax and to the act, and of the reason upon which my vote was given.

There was another objection to the second section. It provided that a *distinct account* should be kept of the duties imposed by the act, the proceeds of which should constitute a fund to be denominated the Mediterranean fund, which should be applied *solely to the purposes* designated by that act; and that the said additional duty should *cease* and be discontinued at the expiration of three months after the ratification of a treaty of peace with Tripoli, unless we should then be at war with any other of the Barbary powers, in which case the said additional duty should cease and be discontinued at the expiration of three months after the ratification of a treaty of peace with such power.

It was objected to this section that it contained a delusive pledge or promise to the people which would never be redeemed; that it was but sweetening to the nauseous drug of taxation, unworthy of the dignity, and discreditable to the sincerity of the legislature; that it was no other than a costly and cumbersome fund; that the distinct account of duties to be applied solely to the purposes of that act, while altogether useless in itself, would only tend to embarrass and complicate the concerns and management of the Treasury, and that when once the tax should be thoroughly

and finally saddled upon the people, the Mediterranean fund and the distinct account would be dropped, but the burthen would remain.

How far these arguments were founded in truth, and this foresight was justified by the event, let the records of your national legislature decide. The ratification of the treaty of peace with Tripoli, three months after which by this promise the Mediterranean fund duty was to cease and be discontinued, took place in April, 1806.

On the 21st of the same month Congress passed an act by which the first section of the act further to protect the commerce and seamen of the United States against the Barbary powers was continued till the end of the then next session of Congress, *and no longer*. The peace with Tripoli had been ratified, we were not at war with any other of the Barbary powers. The *Mediterranean fund*, the *distinct account* and specific application of its proceeds, were all suffered silently to expire; but the additional duty of two and a half per cent was continued until the end of the next session of Congress, *and no longer*.

On the 3d of March, 1807, the same first section of the act, the duty of two and a half per cent were continued in force, until the first day of January then next, *and no longer*.

On the 19th of January, 1808, it was again revived and continued in force until the first day of January then next, but without the flattering promise of the words *and no longer*. By recurring to the journals of the Senate of 11th January, 1808, it will be seen that it was agreed to expunge these words from the bill. They were expunged at my motion and in the following manner. The bill was on its passage to a third reading. The venerable George Clinton, then in the chair of the Senate, holding the bill in his hand and about to put the question on its passage, beckoned to me to come to him from my seat. When I went up, he whispered to me, "I wish you would move to strike out these words *and no longer*." I answered him that I would with pleasure, but asked him what reason I should assign for the motion. "Why," said

he, "I am ashamed to sign my name so often TO A LIE." On this hint I made the motion, and the words were expunged. But the duty was continued from year to year until after the declaration of war against Great Britain, when it merged in the double duty act of 1st July, 1812.

Fellow citizens, I have explained to you the reasons and real motives for all these votes, which your representative, General Alexander Smyth, has laid to my charge in a printed address to you, and to which unusual publicity has been given in the newspapers. I am aware that in presenting myself before you to give this explanation, my conduct may again be attributed to unworthy motives. The best of actions may be, and have been, and will be, traced to impure sources — by those to whom troubled waters are a delight. If in many cases where the characters of public men are canvassed however severely, it is their duty to suffer and be silent, there are others, in my belief many others, wherein their duty to their country, as well as to themselves and to their children, is to stand forth the guardians and protectors of their own honest fame. Had your representative, in asking again for your votes, contented himself with declaring to you his intentions concerning me, you never would have heard from me in answer to him. But when he imputes to me a character and disposition unworthy of any public man, and adduces in proof mere naked votes upon questions of great public interest, all given under the solemn sense of duty impressed by an oath to support the constitution and by the sacred obligations of a public trust, to defend myself against charges so groundless and so unprovoked, is, in my judgment a duty of respect to you, no less than a duty of self-vindication to me. I declare to you that not one of the votes which General Smyth has called from an arduous service of five years in the Senate of the Union, to stigmatize them in the face of the country, was given from any of the passions or motives to which he ascribes them; that I never gave a vote either in hostility to the administration of Mr. Jefferson, or in disregard to republican principles, or in aversion to republican patriots, or in favor of the

slave trade, or in denial of due protection to commerce. I will add, that having often differed in judgment with many of the best and wisest men of this Union of all parties, I have never lost sight either of the candor due to them in the estimate of their motives, or of the diffidence with which it was my duty to maintain the result of my own opinions in opposition to theirs.

Finally, my friends, I have a motive for meeting thus openly and explicitly the accusations of General Smyth, which has reference more to our whole country than to you alone or to me. In the hearts of us all upon every deliberation, whether in Congress, in the state legislature, on the election grounds, or in the public journals, the result to be aimed at by all should be peace, harmony, union, freedom. Public principle can be settled in accordance with these ends only by public discussion. On this, as on more than one other occasion, a personal attack upon me has implicated *principles* of morals and policy of the deepest import to you, to us all. With every vote upon which General Smyth has invoked your censure, was connected a great and important principle. That which he could trace to no other spring than selfish passions and sordid purposes, I have shown you to have been drawn from the deeper fountains of constitutional law, of genuine human rights, of discriminating moral sentiment. Say, if you please, that upon one or more, or all of these votes, my judgment was ill advised, but say that the motives by which it was influenced were pure, and that the reasons by which it was misled were not trivial or light. To all my votes on the acts legislating upon Louisiana in the session of 1803 and 1804, I will conclude with calling your permanent and deliberate attention. They involve, in the most eminent degree, the question still deeply interesting to you, of the *constructive powers of Congress*. Not indeed in the same point of view in which it is more usually presented to your feelings; not a question in direct conflict with another question as to the extent of the rights of your state legislatures; not a question between two sets of servants of the same family to which of them belongs the power to open a banking house or to dig a watercourse, but a question

between Congress and the sovereign people of the Union, between Congress and the peoples of the four quarters of the globe. Upon the question in this aspect *my* sentiments are recorded in the votes which I gave when it appeared in its first seminal principle upon the legislation over Louisiana in 1803 and 1804. The time is perhaps not far distant when the question in this respect will bear with momentous weight upon your interests and upon your affections. The seed was but as a grain of mustard seed. The plant may shoot forth its branches till it overshadows the earth.

WASHINGTON, December 28, 1822.[1]

TO JOHN FORSYTH

DEPARTMENT OF STATE,
WASHINGTON, 3 January, 1823.

SIR,

Mr. Edward Wyer, the bearer, is despatched as a confidential messenger, with the letters and documents which he will deliver to you. The unpleasant incidents which occurred in the course of the last summer at Algiers are doubtless known to you. If the misunderstanding is known to you to be still subsisting upon Mr. Wyer's arrival at Madrid, he is instructed to proceed thence with a despatch to our Consul General, Mr. Shaler, wherever he may be. It is hoped, however, that ere this an amicable explanation may have removed the difficulties which had arisen, and

[1] General Smyth issued a second address to his constituents, which appeared in the *National Intelligencer*, January 11, 1823. See Adams, *Memoirs*, under that date. "Adams' reply to Gen'l Smith of Virginia is considered to be an able, and very skillful performance, and as the Virginians admit, well calculated for the meridian of the ancient Dominion; but I apprehend that he cannot become acceptable to the peculiar faith which does and must control the opinions of this region." *Rufus King to Charles King*, January 9, 1823. *Life and Correspondence of Rufus King*, VI. 494.

that Mr. Shaler will have returned to Algiers and resumed his consular functions there. In that case Mr. Wyer will transmit the despatch for Mr. Shaler with which he is charged, by any safe and ordinary mode of conveyance, and will return here, with any despatches which you may intrust to him; waiting as long as you may think advisable for the answer to the demand of permission to pursue the pirates of Cuba on the shores of the Island.

Besides the correspondence with Mr. Anduaga, copies of which are herewith transmitted, I have received several long and very *earnest* communications from that minister, the replies to which have been and are yet delayed, in the hope that they may be received by him in a disposition more calm and temperate than that which is manifested by his notes. He appears to think it material to the interest of his government to maintain the attitude of loud complaint in regard to transactions with respect to which the primary cause of complaint is on our side. The only exception to this remark relates to a miserable attempt at an expedition against the island of Porto Rico by a foreign officer named Ducoudray de Holstein, but on board of which were some misguided citizens of the United States. One of the vessels appears to have been fitted out at Philadelphia, and one at New York; but the first intimation of these facts received by this government was long after they had sailed, and from the island of St. Bartholomew.

We have since learned that the masters of the vessels were deceived with regard to their destination, and that when it was discovered by them, they positively refused to proceed upon it, and insisted upon going into the island of Curaçao, where the chief and others of the expedition were arrested. You will make this known to the Spanish government, and assure them that this government knew nothing

of this expedition before the departure of the vessels from the United States. This will not be surprising when it is known that it escaped equally the vigilance of Mr. Anduaga himself, who divides his residence between New York and Philadelphia, and of all the other Spanish official agents and consuls at those places.

Mr. Anduaga has taken this occasion to renew with much sensibility all his own complaints and those of his predecessors, against armaments in our ports in behalf of the South American patriots, and even against that commerce which our citizens, in common with the subjects of all the maritime nations of Europe, have for many years maintained with the people of the emancipated colonies. These complaints have been so fully and repeatedly answered that there is some difficulty in accounting for Mr. Anduaga's recurrence to them with the feelings which mark his notes concerning them. Should the occasion present itself, you will give it distinctly to be understood, that if some of these notes remain long, and may even finally remain unanswered, it is from a principle of forbearance to him, and of unequivocal good will towards his government and country.

I am, etc.

THE MACBETH POLICY [1]

An ingenious commentator upon Shakespeare, in a conversation by moonlight on the piazza, observes that the Macbeth policy, "If chance will have me king, why chance may crown me" will *not* answer.

A friend who happened, at the moment when this observation was made, to join in the conversation, and who sometimes studies

[1] The occasion for this paper was a letter from Joseph Hopkinson, of Philadelphia, to Mrs. Adams, which is printed in Adams, *Memoirs*, VI. 130.

the tragedy of Macbeth, with a view to the first and highest purposes of the drama, to purify his own heart by the passions of pity and terror, enquires whether this quotation,

"If chance will have me king, why chance may crown me
"Without my stir."

can with propriety be denominated *the Macbeth* policy, and whether it is not rather a remnant of virtue yet struggling in the breast of that victim of unhallowed ambition against the horrible imaginings of that policy by which he finally wins the crown and loses his life and his soul?

As a test to this inquiry let us suppose that Macbeth had adhered to what you call his policy, and waited for *chance* to crown him. You say he never would have been king? True. And of course no tragedy. The Macbeth policy is quite a different thing, and your quotation is an answer to your argument.

But in the application of the sentiment to present times and future events, ought we not to remark that *kings* and *crowns* and *chance* are all out of the question? *Detur digniori* is the inscription upon the prize, and the *choice* of ten millions of people by their delegated agents must award it.

"No," say you, "little is left to chance or *merit*. The prize is awarded by politicians and newspapers, and the man who sits down waiting for it by chance *or just right* will go bare-handed all his life."

Here we come to the point. The *principle* of the Constitution in its purity is, that the duty shall be assigned to the most able and the most worthy. Politicians and newspapers may bestir themselves to point out who that is; and the only question between us is, whether it be consistent with the duties of a citizen who is supposed to desire that the choice should fall upon himself to assist, countenance, and encourage those who are disposed to befriend him in the pursuit.

The law of friendship is a reciprocation of good offices. He who asks or accepts the offer of friendly service contracts the obligation of meeting it with a suitable return. He who asks or accepts the

offer of aid to promote his own views necessarily binds himself to promote the views of him from whom he receives it. Whatever may be the wishes of an individual, nothing but the unbiassed voice of many others can make him even a candidate for the chief magistracy. If he asks or accepts the aid of one, he must ask or accept the aid of multitudes. Between the principle, of which much has been said in the newspapers, that a *President of the United States must remember those* to whom he owes his elevation, and the principle of accepting no aid on the score of friendship or personal kindness to him, there is no alternative. The former, as it has been announced and urged, I deem to be essentially and vitally corrupt. The latter is the only principle to which no exception can be taken.

If therefore I have checked and discouraged the exertions of Mr. W[alsh] in this cause, it has not been from insensibility either to his kindness, or to his talents, or to his influence. I have been unwilling that from motives of personal kindness to me he should take trouble, incur hazards, and expose himself, and perhaps his interests, to dangers which it will probably never be in my power to reward. The rule which I have been compelled to apply to Mr. W. I have been equally obliged to apply to others. *He* has never intimated to me the wish or expectation of return. Others are less delicate. But *I* am to look not merely to what he would expect, but to what I am bound to think due to an accepted offer.

I do not deceive myself as to the consequences of this principle upon the issue of the approaching election. I know that all are not equally scrupulous, and I remember the connection between the "*Vox pro Republica honesta, ipsi anceps, legi a se militem non emi,*" and the fate of Galba. But in the situation where it has pleased Providence to place me, my first and most anxious desire is to discharge all my duties. The only way that I can fulfil those to my country is by services. Those of friendship can be performed only by forbearing to ask or accept services importing personal sacrifices and hazards which it may never be in my power to requite.

Mr. W. is at liberty to pursue in his editorial capacity, with regard to the Presidential election, that line which his opinions of the public interest and the sense of his own duty to the country will dictate. If he thinks it immaterial upon which of the candidates the choice should settle, perhaps his wisest course would be a guarded neutrality, rendering justice to all, and dispensing censure and approbation according to the convictions of his own judgment. If upon public considerations he has made up his mind to support one candidate, it is yet more congenial to his own spirit of independence and to that of the candidate whom he may favor that this support should be given free and unshackled on both sides, than as an offer made to the candidate for *his* benefit, and as such accepted by him.

In all my correspondence with Mr. W. hitherto I have considered this as a point upon which he had not come to a definitive determination. He had so intimated or declared in an editorial article of his paper; and the character of his remarks upon every occasion on which he had noticed me as before the public, though not unfriendly in the main, and always doing justice to my intentions, had never struck me as manifesting partiality of any kind in my favor, nor assuredly as indicating a preference of me as a possible candidate for the presidency hereafter. My last letter to him was of the 27th of November last; and whatever was said in that to check or discourage exertions on his part in my favor, was said either with reference to *his* personal interest, and as a return of friendship and confidence to him, or in answer to observations which he had made in a private letter to me on certain *grounds* of support to me which he had recently appeared to take in his paper, and of the nature and effect of which he had seemed to wish for my opinion. I considered the *fact* as very uncertain whether even New England would unitedly offer me as a candidate, and I doubted the correctness of the principle upon which it was supposed I should be supported by that section of the Union and opposed by another. Let us have sectional sympathies, if you please; but let us distrust even them; and let us indulge no sec-

tional antipathies. Expose them where they operate, but set not one prejudice in array against another.

When I said that Mr. W. had indicated in his editorial capacity no decided preference of me as a probable candidate for the Presidency, I spoke with reference to the time when the last letters between him and me were written. Since then he has spoken more distinctly; and if I am to consider him as wishing to support me for a candidate with his editorial influence, I would beg leave to offer him the following advice:

First, to wait till it shall be ascertained whether I am to be a candidate at all. Great exertions have for years been systematically making to exclude me from that position altogether. I have done and shall do nothing to place myself in it. Persecuted by calumny in its lowest and most insidious forms, I have more than once defended myself in the face of the nation; whether successfully or not, the nation and posterity are to judge. But surely to parry the daggers of assassins is not to canvass votes for the Presidency. In no part of the Union, not even in my native New England, has there been an unequivocal manifestation of a public sentiment disposed to hold me up as a candidate. If that feeling does not exist, and in a force which no effort of intrigue can suppress or restrain, it would be a useless, and perhaps worse than useless, thing for a few personal friends of mine to attempt to produce it. The opinion has gone abroad throughout the Union that I shall have *no* support. I have no decisive evidence that the voice of the people in any quarter of it is in my favor. The *Richmond Enquirer*, the leading paper of the Presidential canvass, pronounced me eight months ago *hors de combat*. And although it has since admitted that it might possibly be otherwise, it allows me no partisans but those who think I had been wronged in the diplomatic feud. In Massachusetts I am no favorite of the federal majority. In the rest of New England the Republicans are lukewarm and distrustful of success. My career has attached no party to me precisely because it has been independent of all party. "All rising to great place," says Lord Bacon, "is by a winding

stair; and if there be factions it is good to side one's self whilst he is in the rising, and to balance himself when he is placed." I have neither ascended by the winding stair nor sided myself in the rising; and the consequence has been that all parties disown me — the Federalists as a deserter, the Democrats as an apostate. I have followed the convictions of my own mind with a single eye to the interests of the whole nation; and if I have no claims to the suffrages of the whole nation, I have certainly none to those of either party. This independence of party will always in warm, factious times be mistaken and misrepresented by common politicians for unsteadiness of principle; and the man who acts upon it must make his account to stand or fall on broader grounds than lie within the bounds of a geographical subdivision, and with other props than political sectarianism or individual intrigue. If your watch has no main-spring, you will not keep time by turning round the minute-hand. If I cannot move the mass, I do not wish to trifle with the indicator. Against me I have in every section the passions and prejudices peculiar to its own situation and circumstances, and everywhere party spirit, wielded by personal rivals and adversaries, and working by misrepresentation and slander.

With all these weights bearing me down, where is the buoyant principle that is to bring me up? Is it for me to say, my talents and my services? and what else can be said by any of my friends? My wishes are out of the question. If I am to be a candidate, it must be by the wishes, ardent and active, of others and not by mine. Let Mr. W. then first wait for proof that there is a strong public interest in my favor. Secondly, if this point should be ascertained beyond all question, and Mr. W. should think proper to take an active part in promoting the election, whatever information he may desire he can obtain either by direct communication with me or from my friends, with whom he is also in relations of friendship.

Thirdly, if his disposition is to befriend me, and the influence of newspapers be as powerful as you suggest, would it not be advisable to observe the course of other newspapers, and endeavor to

harmonize, or at least not to conflict, with those which appear disposed to support the same cause?

With this explanation, I hope Mr. W. will be satisfied that any coolness with which I may have received his proffers and dispositions of kindness has been the result of a real kindness to himself, as well as of rigid principle. If my countrymen prefer others to me, I must not repine at their choice. Indifference at the heart is not to be won by wooing. The services that have no tongue to speak for themselves would be ill aided by the loudest trumpet. *Merit* and *just right* in this country *will be heard.* And in my case if they are not heard *without my stir* I shall acquiesce in the conclusion that it is because they do not exist.[1]

23rd January, 1823.

[1] "Mr. Adams, having the preference of New England, is, as I conceive, without friends who are knitted to him by personal attachments. The opinion of his integrity and of his superiority as a learned statesman, is not disputed by anyone; but with these qualifications, which are of great worth, a disinclination towards him, grounded on the imputed infirmities which belonged to his father, and added to the want of those properties which produce and maintain personal attachments, prevails to an extent that it will be found difficult to overcome. If what Mr. Walsh calls the Universal Yankee Nation should unite in his favor, it would produce effect, particularly in New York; but the managers will resort to devices to prevent this union." *Rufus King to Christopher Gore*, February 9, 1823. *Life and Correspondence of Rufus King*, VI. 500. "Adams' discussions in the newspapers have increased his reputation, but whether they have materially advanced the probability of his election I am not able to say. He is above all controversy the best informed, and some persons believe the best qualified, of the candidates: but if this be so, does it prove that he is therefore the most likely to be chosen President, or will the election turn on other considerations than those which cannot be denied to Mr. A.?" *Rufus King to John A. King*, March 2, 1823. *Ib.*, 505.

TO STEPHEN ROW BRADLEY

WASHINGTON, 12 March, 1823.

DEAR SIR:

I some days since received your obliging favor of the 4th ultimo with its inclosed copy of your answer to certain inquiries by General Samuel Smith relating to opinions which he supposed me to have expressed in the Senate of the United States justifying the British practice of impressing seamen on board of American vessels on the high seas.

General Smith's recollections on this subject were erroneous, and yours as far as my own serve me are correct. I never justified or approved the British practice of pressing men from our vessels at sea. In the month of January, 1804, General Smith, as Chairman of a Committee of the Senate, brought in a bill "further to protect the seamen of the United States." This bill I opposed, because without making any discrimination between our own seamen and British seamen in our vessels, or between the places where they might be taken whether at sea or even in British ports, its provisions appeared to me adapted to bring the question between us and Great Britain on that subject to an *immediate* issue of war, upon grounds which we could not justly maintain. In the course of the debates upon this bill and while opposing it, I stated to the Senate the British side of the argument, not as approving it myself, much less as justifying their practices under it, but to show that it was a question of extreme difficulty between the two nations, and that it would be neither just nor politic to bring it to an immediate conflict of war by precipitate and inconsiderate measures on our part. I stated that the right of a sovereign to command the services of his subjects, especially in emer-

gencies of war, was not only a British doctrine, but asserted by all the writers on public law of whom I had any knowledge. I very probably said that I held the doctrine to be sound, for I did and do still so hold it. I further added that the exercise of this right by the king of Great Britain *within the realm* by the impressment of seamen in time of war actual or impending had been maintained to be lawful by some of the wisest and most virtuous judges, and some of the most ardent friends of liberty that the nation had ever produced. I referred especially to the arguments of Judge Foster in his reports, and of Junius, and spoke of them both with strong commendation. I said that whether conclusive or not they were considered in England to be so; that we could not maintain the right of rescuing British seamen from the authority of their own government within the British dominions; that when our vessels frequented British ports while Great Britain was at war and we were neutral, there was the strongest possible temptation both to the British seamen to ship in our vessels, and to the masters of our vessels to ship them. To the former the neutral merchant service offered higher wages and more liberty without the dangers of war; while the latter could ship them at lower wages than they were obliged to give for seamen in our own ports. I observed that in consequence of this we were charged with seducing British seamen from the service of their own country, and that if we should pass an act making it penal to take a seaman out of an American vessel, without discriminating either as to the national character of the man or as to the place where the act should be done, it would be equivalent to declaring war, if a British press gang should board an American vessel in the port of Liverpool and take from her a British seaman clandestinely shipped to escape from the service of his own sovereign.

I have no doubt that this was the occasion from which General Smith had drawn the erroneous conclusion that I had at one period justified in Senate the British practices of impressment on board of our vessels. I never at any time admitted their right to take even a British subject from an American vessel at sea, or anywhere out of the British Dominions themselves. My argument was not in support or defence of the British practice, but *against* a particular proposed measure of resistance to it. The bill reported by General Smith did not pass, and although the practice of impressment from our vessels was afterwards continued and aggravated a hundred fold, and finally contributed largely to produce war between the two countries, yet that bill was never again brought forward.

I have been informed that since the receipt of your letter General Smith had done me the justice to acknowledge the mistake of the impression under which he had before imputed to me the assertion of opinions which I never did hold. It is very true that I always dreaded the consequences of that collision of principle between us and Great Britain in which her rights to the service of her seamen, and ours to the freedom of ours and to the security of our flag upon the seas, were involved. I feared it would terminate in war and wished that if possible it might be adjusted by negotiation. Neither war nor negotiation have yet been able to settle it, and it still hangs over us a sword, now indeed in the scabbard, but which the first maritime war in Europe will again unsheathe, and to meet or avert which will require all the prudence and all the energy of our descendants and successors. "Peace in *our* time" is the prayer which more earnestly than ever I offer at the throne of grace, hoping and trusting that there never will be wanting to our country or to our councils the spirit which the emergency may re-

quire thus to modify the petition as to say "the peace of freedom and independence, or none."

I pray you, Dear Sir, to accept my thanks for the explicit candor and frankness with which you answered the inquiries of General Smith, and for your kindness in communicating to me the copy of your answer. And I am happy that this incident affords me the opportunity of renewing the remembrance of our old associated public service and of assuring you of the respect with which I am Your faithful servant.

TO RUFUS KING

WASHINGTON, 7 April, 1823.

DEAR SIR:

I received your letter of the 1st instant [1] on the 4th. The President received one from you this day, but the definitive answer and letter to which you refer have not yet been given. I concur in opinion with you, and have spoken accordingly. If the ground was not positively preoccupied, which I believe it was not, the recommendation from the quarter you anticipate will be decisive. Faithfully yours.

TO RUFUS KING

WASHINGTON, 21 April, 1823.

DEAR SIR:

I have received your letters of the 10th and 18th, I wrote you advisedly on the 7th, but it appears I was mistaken in the impression that no definitive answer had been then

[1] Printed in King, *Life and Correspondence of Rufus King*, VI. 512. An appointment to the Supreme Court had been offered to Smith Thompson, who was expected to decline. The office would then be offered to Van Buren. The story of the indecision of Thompson is told in the King volume.

received from the Secretary of the Navy. As I had reason to believe his recommendation would have great weight, I perhaps inferred from inconclusive premises that it had not then been given. The uncertainty *after* it was given would lead me now to the belief that the ground was preoccupied, which when I wrote you last I thought it was not. My own opinion agreeing with yours remains unchanged.

I am, etc.

TO DANIEL CONY [1]

WASHINGTON, 28 April, 1823.

DEAR SIR:

I received with much pleasure your letter of the 15th instant, and am highly gratified with your approbation of the exposures which have been drawn from me of certain transactions at the negotiation of Ghent and afterwards.

I suppose it to be a settled principle that all lands secured by the treaty with Great Britain of 1783 to this Union which were not within the chartered limits of any state belonged of course to the United States. What lands were and what lands were not beyond the chartered limits of the state I am not able to say. Some of the states heretofore have insisted upon exclusive right to territories which according to the above principle belonged to the Union. The question of the boundary between Maine and the British Provinces is yet open, nor is it in my power to say when it will be closed. The two commissioners under the 5th article of the treaty of Ghent having disagreed by about one hundred miles as to the location of the highlands dividing the waters of the Atlantic from those of the St. Lawrence, the question was

[1] Of Augusta, Maine. The name may be Corry.

next to be referred to the arbitration of a friendly sovereign, but it has been thought best to make a previous attempt to arrange the matter by negotiation. Some delays have occurred in this, and some difficulties may be expected to arise in adjusting it. If it can be settled to the satisfaction of the people of Maine and Massachusetts, I am persuaded it will be so to the whole Union, which would be a great satisfaction to me. In one thing your opinion is certainly correct — that when the settlement shall be made, it will be necessary to specify the line by something more definite than mere highlands.

What the confederacy of European sovereigns will be able to effect in Spain, it would require the spirit of prophecy to foretell. I wait, as Pope says, for the great teacher, fearing for Spain much and hoping, if possible, more.

The situation of Spain is full of terror, and will soon be covered with humiliation or with glory. It is tasking severely the patience of the human race to hear Louis the 18th of France proclaim in the face of the world, that he who had not legs to stand upon will send a hundred thousand Frenchmen into Spain to ravage the land with fire and sword, to teach them to receive their liberties from the grant of Ferdinand the 7th. This doctrine cannot be much longer maintained in Europe. It grows too absurd.

I learn with great satisfaction that your new state government in Maine is likely to prove a blessing to the people and to the state. Their separation from Massachusetts was an unwelcome event to me as a citizen of the commonwealth, but when desired by the people of Maine themselves, Massachusetts could only acquiesce in the result. You have been fortunate in the selection of a discreet and intelligent governor,[1] who has sense enough to despise the puny arti-

[1] Albion Keith Parris (1788–1857).

fice of seeking consequence to himself by speeches and messages insulting to the government of the Union.

I have a perfect recollection of the party at Milton Hill where we met at dinner in August or September, 1817, and of much of the conversation in which Mr. Holley,[1] now President of the Transylvan University, took so earnest a share.

It is my intention to pay a visit to my father in the course of the ensuing summer. I have hoped that I might have a longer vacation this year than I have had at any former season since my present residence here, but as the time approaches the prospect of leisure shortens. I think I shall scarcely have two months to spare.

Your nephew Dr. Sewall [2] bears a respectable character, and is I believe successful in his profession.

I am, etc.

TO HUGH NELSON [3]

Department of State,
Washington, 28 April, 1823.

Sir,

The period at which you enter upon the mission with which you are charged is of no common interest, and the relations of the United States with the country to which you are destined, at all times important, are now of the deepest moment. The situation of Spain herself, that of France, from whence she has been threatened with invasion, ere this probably commenced, that of the great continental European powers leagued against her, and that of Great

[1] Horace Holley (1781–1827). See Dexter, *Yale Biographies*, V. 586.

[2] Thomas Sewall (1786–1845).

[3] (1768–1836), of Virginia.

Britain, which now for the first time has seceded from the political system of the European alliance, all combine to darken the immediate prospects of the future in the eastern hemisphere, and to summon the attention of this government to the interests of the Union which may be affected by them.

It has been a maxim in the policy of these United States, from the time when their independence was achieved, to keep themselves aloof from the political systems and contentions of Europe. To this principle it is yet the purpose of the President to adhere: and in the war about to commence, the attitude to be assumed and maintained by the United States will be that of neutrality.

But the experience of our national history has already shown that, however sincerely this policy was adopted, and however earnestly and perseveringly it was maintained, it yielded ultimately to a course of events by which the violence and injustice of European powers involved the immediate interests and brought in conflict the essential rights of our own country.

Two of the principal causes of the wars between the nations of Europe since that of our own Revolution, have been, indeed, the same as those in which that originated — civil liberty and national independence. To these principles, and to the cause of those who contend for them, the people of the United States can never be indifferent. A feeling of sympathy and of partiality for every nation struggling to secure or to defend these great interests, has been and will be manifested by this Union; and it is among the most difficult and delicate duties of the general government, in all its branches, to indulge this feeling so far as it may be compatible with the duties of neutrality, and to withhold and restrain from encroaching upon them. So far as it is

indulged, its tendency is to involve us in foreign wars, while the first and paramount duty of the government is to maintain *peace* amidst all the convulsions of foreign wars, and to enter the lists as parties to no cause, other than our own.

In the *maritime* wars of Europe, we have, indeed, a direct and important interest of our own; as they are waged upon an element which is the common property of all; and as our participation in the possession of that property is perhaps greater than that of any other nation. The existence of maritime war, itself, enlarges and deepens the importance of this interest; and it introduces a state of things in which the conflict of neutral and belligerent rights becomes itself a continual and formidable instigation to war. To all maritime wars Great Britain can scarcely fail of becoming a party; and from that moment arises a collision between her and these states, peculiar to the situation, interests and rights of the two countries, and which can scarcely form a subject of discussion between any other nation and either of them.

This cause then is peculiarly our own: and we have already been once compelled to vindicate our rights implicated in it by war. It has been too among the dispensations of Providence, that the issue of that war should have left that question unsettled for the future; and that the attempts which on the part of the United States have been repeatedly made since the peace for adjusting it by amicable negotiation, have in like manner proved ineffectual. There is therefore great reason to apprehend, that if Great Britain should engage in the war, now just kindled in Europe, the United States will again be called to support by all their energies, not excepting war, the rights of their national independence, enjoyed in the persons of their seamen.

But in the war between France and Spain now commenc-

ing, other interests, peculiarly ours, will in all probability be deeply involved. Whatever may be the issue of this war, as between those two European powers, it may be taken for granted that the dominion of Spain upon the American continents, North and South, is irrecoverably gone. But the islands of Cuba and of Porto Rico still remain nominally and so far really dependent upon her, that she yet possesses the power of transferring her own dominion over them, together with the possession of them, to others. These islands, from their local position, are natural appendages to the North American continent; and one of them, Cuba, almost in sight of our shores, from a multitude of considerations has become an object of transcendent importance to the political and commercial interests of our Union. Its commanding position with reference to the Gulf of Mexico and the West India seas; the character of its population; its situation midway between our southern coast and the island of San Domingo; its safe and capacious harbor of the Havana, fronting a long line of our shores destitute of the same advantage; the nature of its productions and of its wants, furnishing the supplies and needing the returns of a commerce immensely profitable and mutually beneficial; give it an importance in the sum of our national interests, with which that of no other foreign territory can be compared, and little inferior to that which binds the different members of this Union together.

Such indeed are, between the interests of that island and of this country, the geographical, commercial, moral, and political relations, formed by nature, gathering in the process of time, and even now verging to maturity, that in looking forward to the probable course of events for the short period of half a century, it is scarcely possible to resist the conviction that the annexation of Cuba to our federal republic

will be indispensable to the continuance and integrity of the Union itself. It is obvious however that for this event we are not yet prepared. Numerous and formidable objections to the extension of our territorial dominions beyond the sea present themselves to the first contemplation of the subject. Obstacles to the system of policy by which it alone can be compassed and maintained are to be foreseen and surmounted, both from at home and abroad. But there are laws of political as well as of physical gravitation; and if an apple severed by the tempest from its native tree cannot choose but fall to the ground, Cuba, forcibly disjoined from its own unnatural connection with Spain, and incapable of self-support, can gravitate only towards the North American Union, which by the same law of nature cannot cast her off from its bosom.[1]

In any other state of things than that which springs from this incipient war between France and Spain, these considerations would be premature. They are now merely touched upon, to illustrate the position that, in the war opening upon Europe, the United States have deep and important interests involved, peculiarly their own. The condition of Cuba cannot but depend upon the issue of this war. As an integral part of the Spanish territories, Cuba has been formally and solemnly invested with the liberties of the Spanish constitution. To destroy those liberties, and to restore in the stead of that Constitution the dominion of the Bourbon race, is the avowed object of this new invasion of the Peninsula. There is too much reason to appre-

[1] In October, 1822, George Canning, acting upon a suggestion contained in a letter from Havana, instructed Stratford Canning to use all his "endeavours to ascertain how far such suspicions [of designs of the United States upon Cuba] are justified." The reply completely exonerated the United States government from entertaining any such designs.

hend that in Spain itself this unhallowed purpose will be attended with immediate, or at least with temporary success; the constitution of Spain will be demolished by the armies of the Holy Alliance; and the Spanish nation will again bow the neck to the yoke of bigotry and despotic sway.

Whether the purposes of France, or of her continental allies, extend to the subjugation of the remaining ultramarine possessions of Spain or not, has not yet been sufficiently disclosed. But to confine ourselves to that which immediately concerns us, the condition of the island of Cuba, we know that the republican spirit of freedom prevails among its inhabitants. The liberties of the constitution are to them rights in possession: nor is it to be presumed that they will be willing to surrender them, because they may be extinguished by foreign violence in the parent country. As Spanish territory the island will be liable to invasion from France during the war: and the only reasons for doubting whether the attempt will be made are the probable incompetency of the French maritime force to effect the conquest, and the probability that its accomplishment would be resisted by Great Britain. In the meantime and at all events, the condition of the island in regard to that of its inhabitants, is a condition of great, imminent, and complicated danger: and without resorting to speculation upon what such a state of things must produce upon a people so situated, we know that its approach has already had a powerful effect upon them, and that the question what they are to do upon contingencies daily pressing upon them and ripening into reality, has for the last twelve months constantly excited their attention and stimulated them to action.

Were the population of the island of one blood and color,

there could be no doubt or hesitation with regard to the course which they would pursue, as dictated by their interests and their rights. The invasion of Spain by France would be the signal for *their* Declaration of Independence. That even in their present state it will be imposed upon them as a necessity is not unlikely; but among all their reflecting men it is admitted as a maxim fundamental to all deliberation upon their future condition, that they are not competent to a system of permanent self-dependence. They must rely for the support of protection upon some force from without; and as, in the event of the overthrow of the Spanish constitution, that support can no longer be expected from Spain, their only alternative of dependence must be upon Great Britain, or upon the United States.

Hitherto the wishes of this government have been that the connection between Cuba and Spain should continue, as it has existed for several years. These wishes are known to the principal inhabitants of the island, and instructions, copies of which are now furnished you, were some months since transmitted to Mr. Forsyth, authorizing him in a suitable manner to communicate them to the Spanish government. These wishes still continue, so far as they can be indulged with a rational foresight of events beyond our control, but for which it is our duty to be prepared. If a government is to be imposed by foreign violence upon the Spanish nation, and the liberties which they have assisted by their constitution are to be crushed, it is neither to be expected nor desired that the people of Cuba, far from the reach of the oppressors of Spain, should submit to be governed by them. Should the cause of Spain herself issue more propitiously than from its present prospects can be anticipated, it is obvious that the trial through which she must pass at home, and the final loss of *all* her dominions

on the American continents, will leave her unable to extend to the island of Cuba that protection necessary for its internal security and its outward defence.

Great Britain has formally withdrawn from the councils of the European Alliance in regard to Spain. She disapproves the war which they have sanctioned, and which is undertaken by France: and she avows her determination to defend Portugal against the application of the principles, upon which the invasion of Spain raises its only pretence of right. To the war as it commences, she has declared her intention of remaining neutral; but the spirit of the British nation is so strongly and with so much unanimity pronounced against France, their interests are so deeply involved in the issue, their national resentments and jealousies will be so forcibly stimulated by the progress of the war, whatever it may be, that unless the conflict should be as short and the issue as decisive as that of which Italy was recently the scene, it is scarcely possible that the neutrality of Great Britain should be long maintained. The prospect is that she will be soon engaged on the side of Spain; but in making common cause with her, it is not to be supposed that she will yield her assistance upon principles altogether disinterested and gratuitous. As the price of her alliance the two remaining islands of Spain in the West Indies present objects no longer of much possible value or benefit to Spain, but of such importance to Great Britain, that it is impossible to suppose her indifferent to the acquisition of them.

The motives of Great Britain for desiring the possession of Cuba are so obvious, especially since the independence of Mexico, and the annexation of the Floridas to our Union; the internal condition of the island since the recent Spanish revolution, and the possibility of its continued dependence upon Spain, have been so precarious; the want of protection

there; the power of affording it possessed by Great Britain, and the necessities of Spain to secure, by some equivalent, the support of Great Britain for herself; have formed a remarkable concurrence of predispositions to the transfer of Cuba; and during the last two years rumors have been multiplied, that it was already consummated. We have been confidentially told by indirect communication from the French government, that more than two years since Great Britain was negotiating with Spain for the cession of Cuba; and so eager in the pursuit as to have offered Gibraltar, and more, for it in exchange. There is reason to believe that, in this respect, the French government was misinformed; but neither is entire reliance to be placed on the declaration lately made by the present British Secretary for Foreign Affairs to the French government, and which, with precautions indicating distrust, has been also confidentially communicated to us; namely, that Great Britain would hold it disgraceful to avail herself of the distressed situation of Spain, to obtain possession of any portion of her American colonies. The object of this declaration, and of the communication of it here, undoubtedly was to induce the belief that Great Britain entertained no purpose of obtaining the possession of Cuba: but these assurances were given with reference to a state of peace, then still existing, and which it was the intention and the hope of Great Britain to preserve. The condition of all the parties to them has since changed; and however indisposed the British government might be, ungenerously to avail themselves of the distress of Spain, to extort from her any remnant of her former possessions, they did not forbear to take advantage of it, by orders of reprisals given to two successive squadrons, dispatched to the West Indies, and stationed in the immediate proximity to the island of Cuba. By measures

thus vigorous and peremptory, they obtained from Spain immediate revocation of the blockade which her generals had proclaimed on the coast of Terra Firma, and pledges of reparation for all the captures of British vessels made under color of that military fiction. They obtained also an acknowledgment of many long standing claims of British subjects upon the Spanish government, and promises of payment of them, as a part of the national debt. The whole amount of them, however, as well as that of the reparation and indemnity promised for the capture of British property under the blockade of General Morales and by the Porto Rico privateers, yet exists in the form of claims; and the whole mass of them now is acknowledged claim, for the satisfaction of which pledges have been given, to be redeemed hereafter; and for which the island of Cuba may be the only indemnity in the power of Spain to grant, as it will undoubtedly be to Great Britain the most satisfactory indemnity which she could receive.

The war between France and Spain changes so totally the circumstances under which the declaration abovementioned of Mr. Canning was made, that it may, at its very outset, produce events, under which the possession of Cuba may be obtained by Great Britain without even raising a reproach of intended deception against the British government for making it. An alliance between Great Britain and Spain may be one of the first fruits of this war. A guarantee of the island to Spain may be among the stipulations of that alliance; and in the event either of a threatened attack upon the island by France, or of attempts on the part of the islanders to assume their independence, a resort to the temporary occupation of the Havana by British forces may be among the probable expedients, through which it may be obtained, by concert between Britain and Spain herself.

It is not necessary to point out the numerous contingencies by which the transition from a temporary and fiduciary occupation to a permanent and proprietary possession may be effected.

The transfer of Cuba to Great Britain would be an event unpropitious to the interests of this Union. This opinion is so generally entertained, that even the groundless rumors that it was about to be accomplished, which have spread abroad and are still teeming, may be traced to the deep and almost universal feeling of aversion to it, and to the alarm which the mere probability of its occurrence has stimulated. The question both of our right and our power to prevent it, if necessary, by force, already obtrudes itself upon our councils, and the administration is called upon, in the performance of its duties to the nation, at least to use all the means within its competency to guard against and forefend it.

It will be among the primary objects requiring your most earnest and unremitting attention, to ascertain and report to us any movement of negotiation between Spain and Great Britain upon this subject. We cannot indeed prescribe any special instructions in relation to it. We scarcely know where you will find the government of Spain upon your arrival in the country; nor can we foresee with certainty by whom it will be administered. Your credentials are addressed to Ferdinand, the king of Spain under the constitution. You may find him under the guardianship of a Cortes, in the custody of an Army of Faith, or under the protection of the invaders of his country. So long as the *constitutional* government may continue to be administered in his name, your official intercourse will be with his ministers; and to them you will repeat what Mr. Forsyth has been instructed to say, that the wishes of your government are, that Cuba and Porto Rico may continue in con-

nection with independent and constitutional Spain. You will add, that no countenance has been given by us to any projected plan of separation from Spain, which may have been formed in the island. This assurance becomes proper, as, by a late despatch received from Mr. Forsyth, he intimates that the Spanish government have been informed, that a revolution in Cuba was secretly preparing, fomented by communications between a society of Free Masons there, and another of the same fraternity in Philadelphia. Of this we have no other knowledge: and the societies of Free Masons in this country are so little in the practice of using agency of a political nature on any occasion, that we think it most probable the information of the Spanish government in that respect is unfounded. It is true that the Free Masons at the Havana have taken part of late in the politics of Cuba; and so far as it is known to us, it has been an earnest and active part in favor of the continuance of their connection with Spain.

While disclaiming all disposition on our part, either to obtain possession of Cuba, or of Porto Rico, ourselves, you will declare that the American government had no knowledge of the lawless expedition undertaken against the latter of those islands last summer. This was one among many subjects upon which the Spanish minister residing here, Anduaga, remonstrated in a style of complaint to which, from respect for Spain, and that alone, no answers were returned to him. Translations of some of the invectives in which he has indulged himself are herewith enclosed. You will distinctly state to the Spanish government the President's expectation that Mr. Anduaga will not return in his official capacity to this country. His character was already so well known before he came to the United States, that Mr. Brent, then at Madrid, did even then formally

remonstrate against his appointment, though without success. The President wishes not to dwell upon the character of his communications, in case he should not come back to renew them: but in the case of the expedition against Porto Rico, there is reason to believe that it was known to him before the departure of the vessels concerned in it from New York and Philadelphia, and that he voluntarily forebore to call the attention of this government to it.

You will not conceal from the Spanish government the repugnance of the United States to the transfer of the island of Cuba by Spain to any other power. The deep interest which would to them be involved in the event gives them the right of objecting against it; and as the people of the island itself are known to be averse to it, the right of Spain herself to make the cession, at least upon the principles on which the present Spanish constitution is founded, is more than questionable. Informal and verbal communications on this subject with the Spanish Minister of Foreign Affairs will be most advisable. In casual conversation, and speaking as from your own impressions, you may suggest the hope, that if any question of transferring the island to any other power is, or shall be in agitation, it will not be withheld from your knowledge, or from ours; that the condition of Cuba cannot be changed without affecting in an eminent degree the welfare of this Union, and consequently the good understanding between us and Spain; that we should consider an attempt to transfer the island, against the will of its inhabitants, as subversive of their rights, no less than of our interests; and that, as it would give them the perfect right of resisting such transfer, by declaring their own independence, so if they should, under those circumstances, resort to that measure, the United States will be fully justified in supporting them to carry it into effect.

Should immediate success attend the French invasion of Spain, its probable consequence will be the restoration of Ferdinand, not perhaps to the unlimited exercise of sovereign power, but to a phantom of constitution, which, under the auspices of a Holy League of absolute monarchs, he will graciously *give* to his people. There will in that event be no disposition, either in Ferdinand or his allies, to transfer the only remaining colonies of Spain to another power; but it may incite the people of Cuba to declare themselves independent, and will certainly give them the right so to do, if the charter of the restored government should import an abridgment of any of the liberties which they now enjoy under the constitution. It is now necessary to look forward to this contingency only to say, that if a counter-revolution should be effected, you will continue accredited to king Ferdinand, and will hold official intercourse with whatever administration shall be conducted in his name. But in the event of a revolution by which he should be dethroned, or if he should go out of Spain, you will remain with the government *de facto*, waiting for new credentials which in that case become necessary.

In a late answer to an address from the Cortes he declared his intention, in case the country should be invaded, to put himself at the head of the army for its defence. Other accounts announce the probability that a removal of the seat of government to Corunna, or to Cadiz, was in contemplation. Should the king repair to the army, whether of the constitution or of the Faith, it is not to be expected that *any* foreign minister will be required to attend him: but in the case of the removal of the government from Madrid, you will follow it, or remain there, according as the circumstances, which at this distance of time and place cannot be foreseen, may guide your discretion.

The critical and convulsed condition of Spain may indeed bring forth many incidents now unforeseen, and upon which the President relies upon your own judgment for the course which under them you will find it prudent to pursue. But with regard to the ordinary relations between the two countries, there are various objects upon which I now proceed to request your attention.

The renewal of the war in Venezuela has been signalized, on the part of the Spanish commander, by proclamations of blockade unwarranted by the laws of nations, and by decrees regardless of those of humanity. With no other naval force than a single frigate, a brig, and a schooner, employed in transporting supplies from Curaçao to Porto Cabello, they have presumed to declare a blockade of more than 1200 miles of coast. To this outrage upon all the rights of neutrality, they have added the absurd pretension of interdicting the peaceable commerce of other nations with *all* the ports of the Spanish main, upon the pretence that it had heretofore been forbidden by the Spanish colonial laws: and on the strength of these two inadmissible principles, they have issued commissions at Porto Cabello and in the island of Porto Rico, to a swarm of privateers, which have committed extensive and ruinous depredations upon the lawful commerce of the United States, as well as upon that of other nations, and particularly of Great Britain.

It was impossible that neutral nations should submit to such a system; the execution of which has been so strongly marked with violence and cruelty, as was its origin with injustice. Repeated remonstrances against it have been made to the Spanish government, and it became necessary to give the protection of our naval force to the commerce of the United States, exposed to these depredations.

By the act of Congress of 3 March, 1819, "to protect the

commerce of the United States, and to punish the crime of piracy," the President was authorized to instruct the commanders of the public armed vessels of the United States, to *take* any armed vessel "which shall have attempted or committed any piratical aggression, search, restraint, depredation or seizure, upon any vessel of the United States, or of the citizens thereof, *or upon any other vessel;* and also to retake any vessel of the United States, or its citizens, which may have been *unlawfully* captured upon the high seas."

A copy of this act, and of the instructions from the Navy Department to the officers who have been charged with the execution of it, is herewith furnished you. The instructions will enable you to show how cautiously this government, while affording the protection due to the lawful commerce of the nation has guarded against the infringement of the rights of all others.

The privateers from Porto Rico and Porto Cabello have been by their conduct, distinguishable from pirates only by commissions of most equivocal character from Spanish officers, whose authority to issue them has never been shown: and they have committed outrages and depredations, which no commission could divest of the piratical character.

During the same period, swarms of pirates and of piratical vessels, without pretence or color of commission, have issued from the island of Cuba, and the immediate neighborhood of the Havana, differing so little in the composition of their crews and their conduct from the privateers of Porto Cabello and Porto Rico, as to leave little distinction other than that of being *disavowed*, between them. These piracies have now been for years continued, under the immediate observation of the government of the island of Cuba; which, as well as the Spanish government, has been repeatedly and ineffectually required to suppress them. Many of them have

been committed by boats, within the very harbors, and close upon the shores, of the island. When pursued by superior force, the pirates have escaped to the shores: and twelve months have elapsed since the late Captain General Mahy refused to Captain Biddle the permission to land even upon the desert and uninhabited parts of the island, where they should seek refuge from his pursuit. Governor Mahy at the same time declared, that *he had* taken the necessary measures to defend his territorial jurisdiction, and for the apprehension of every description of outlaws.

Governor Mahy is since deceased; but neither the measures which he had then taken, nor any since adopted by the government of the island, have proved effectual to suppress, or in any manner even to restrain the pirates. From the most respectable testimony we are informed that these atrocious robberies are committed by persons well known, and that the traffic in their plunder is carried on with the utmost notoriety. They are sometimes committed by vessels equipped as merchant vessels, and which clear out as such from the Havana. It has also been remarked, that they cautiously avoid molesting Spanish vessels, but attack without discrimination the defenceless vessels of all other nations. You will see, by a letter from Lieutenant Gregory to the Secretary of the Navy (p. 64 of the printed documents) that a large portion of the crews of the Porto Rico privateers consist of those same pirates from Cuba.

In November last a gallant officer of the navy, Lieutenant Allen, lost his life in a conflict with some of those pirates; and an armament was immediately fitted out, and is now on the spot, under the command of Commodore Porter for the defence and protection of our commerce against them. Notice was despatched of this movement to Mr. Forsyth, by a special messenger in January last; with in-

structions to him to require of the Spanish government the permission to land in case of necessity, in pursuit of the robbers. Copies of the instructions from the Secretary of the Navy are herewith furnished.

From this statement of facts it is apparent, that the naval officers of the United States who have been instructed to protect our commerce in that quarter, have been brought in conflict with two descriptions of *unlawful* captors of our merchant vessels; the acknowledged and disavowed pirates of Cuba, and the ostensibly commissioned privateers from Porto Rico and Porto Cabello; and that in both cases the actual depredations have been of the same class of Spanish subjects, and often probably the same persons. The consequence has been that several of the commissioned privateers have been taken by our cruisers; and that in one instance a merchant vessel belonging to the Havana, but charged upon oath of two persons as having been the vessel from which a vessel of the United States had been robbed, has been brought into port, and is now at Norfolk, to be tried at the next session of the District Court of the United States. In all these cases the Spanish minister, Anduaga, has addressed to this department complaints and remonstrances, in language so exceptionable, that it precluded the possibility of an amicable discussion of the subject with *him*. In some of the cases, explanations have been transmitted to Mr. Forsyth, to be given in a spirit of amity and conciliation to the Spanish government. But as your mission affords a favorable opportunity for a full and candid exposition of them all, copies of the correspondence with Mr. Anduaga relating to them are annexed to these instructions; to which I add, upon each case of complaint, the following remarks:

1. The first is the case of a man named Escandell, prize

master of a Dutch vessel called the *Neptune*, taken by a privateer, armed in Porto Cabello, called the *Virgen del Carmen*, and retaken by the United States armed brig *Spark*, then commanded by Captain John H. Elton, since deceased. From the report of Captain Elton it appears: 1st. That the Dutch vessel had been taken within the territorial jurisdiction of the Dutch island of Curaçao; 2ndly. That he, Captain Elton, delivered her up to the governor of the island of Amaba; 3dly. That he retook her as a vessel piratically captured, the prize master, Escandell, having produced to him no papers whatsoever. He therefore brought him and the prize crew to Charleston, S. C., where they were prosecuted as pirates.

Mr. Anduaga's first letter to me on this case was dated the 24th of July, 1822, enclosing a copy of a letter from Escandell to the Spanish Vice Consul at Charleston, invoking his protection; Escandell being then in prison, and under an indictment for piracy. He solicits the interposition of the Vice Consul, that he may obtain from the Captain General of the Havana, and the commanding officers at Porto Cabello, documents to prove that he was lawfully commissioned: and he alleges, that the captain of the privateer had furnished him with a *document*, to carry the prize into Porto Cabello; that he did deliver this document to Captain Elton, who *concealed* it from the court at Charleston; that Elton and his officers well know that he, Escandell, was commissioned by the King of Spain, and had assisted at the disembarking of General La Torre, with the privateer and the prize; but that Elton had withheld his knowledge of these facts from the grand jury. Mr. Anduaga's letter to me noticed this contradiction between the statement of Captain Elton and the declaration of Escandell; and requested that the trial at Charleston might be postponed, till he could

receive answers from the Captain General of the Havana, and the Commandant of Porto Cabello, to whom he had written to obtain the documents necessary to prove the legality of the capture. This was accordingly done.

The letter of Mr. Anduaga was unexceptionable in its purport; but on the 17th of October he addressed me a second enclosing the papers he had received from Porto Cabello, and assuming a style of vituperation, not only against Captain Elton, then very recently dead, but against the navy in general, the government, and even the people of the United States, which required the exertion of some forbearance to avoid sending it back to him, as unsuitable to be received at this Department from a foreign minister.

It was the more unwarrantable, because while assuming as proved against an officer of the United States, no longer living to justify himself, that he had *concealed* documents furnished him by Escandell, he declares it "evident, that, not the public service, but avarice, and the atrocious desire of sacrificing upon a gibbet the lives of some innocent citizens of a friendly power, were the moving principles of this commander's conduct." To those who personally knew Captain Elton, what language could reply in terms of indignation adequate to the unworthiness of this charge? And how shall I now express a suitable sense of it, when I say that it was advanced without a shadow of proof, upon the mere original assertion of Escandell, made in the most suspicious manner, and which the very documents from Porto Cabello tended rather to disprove than to sustain!

It was made I say in the most suspicious manner. For in his affidavit before the clerk of the United States court at Charleston, made on the 8th of June, 1822, where he might have been confronted by Captain Elton and the officers of the *Spark*, Escandell had not even hinted at this conceal-

ment of his papers by Captain Elton, or pretended that he had produced any to him. But *after* he had been arraigned upon the indictment, and after the court had, at the motion of his counsel, postponed his trial to the next term, for the express purpose of giving him time to obtain proof that he had been commissioned; in a secret letter to Casteo, the owner of the privateer at Porto Cabello, and in another to the Spanish Vice Consul at Charleston, he makes these scandalous allegations against Captain Elton, at times and places where he could not be present to refute them.

That the documents from Porto Bello, transmitted to Mr. Anduaga, tended rather to disprove than to sustain them, you will perceive by an examination of the translations of them, herewith furnished you. The only documents among them showing the authority under which Escandell, when captured by Captain Elton, had possession of the *Neptune*, is a copy of the commission of the privateer, *Virgen del Carmen*, which had taken the *Neptune*, and a declaration by the Captain of the privateer, *Lorenzo Puyol*, that on capturing the *Neptune*, he had put Escandell as prize master, and six men on board of her, ordering her into the port of Porto Cabello, and furnishing Escandell *with the documents necessary for his voyage*. No copy of these documents is produced; and the declaration of this Captain Puyol, himself, is signed only with a cross, he not knowing how to write his name.

It is conceived that the only admissible evidence of Escandell's regular authority as prize master of a captured vessel, would have been an authenticated copy of the document itself furnished him by Puyol. The extreme ignorance of this man, who appears on the face of his own declaration unable to write his own name, raises more than a presumption that he knew as little what could be a regular document

for a prize master; and is by no means calculated to give confidence to his declaration as a substitute for the authentic copy of the document itself. The absurdity of the imputation of avaricious motives to Captain Elton is demonstrated by the fact, that he delivered up the prize, which was a Dutch vessel, to the governor of Amaba, and to her original captain: and as to that of his having concealed Escandell's papers, to bring him and six innocent seamen to the gibbet, I can even now notice it only to leave to the candor of the Spanish government whether it ought ever to be answered.

Copies are herewith furnished of Captain Elton's report of this transaction to the Secretary of the Navy; of the agreement by which the *Neptune* was by him delivered up to the Dutch commandant at the island of Arnba Thielen; and of the receipt given by her original Captain Reynar Romer, to whom she was restored. In these documents you will see it is expressly stipulated both by the Dutch commandant and by Captain Romer, that the "vessel and cargo, or the value thereof, should be returned to any legal authority of the United States of America, or to the Spanish government, or prize claimants, *in due course of the laws of nations*." You will find also that in the document signed by Captain Romer, he expressly declares that the persons by whom he had been captured, *purported* to belong to a Spanish felucca privateer; but *not having any credentials or authority* to cruise upon the high seas with them, *he supposes them to have been pirates*.

This declaration of Romer himself is directly contradictory to the assertion which Escandell in his affidavit at Charleston, on the 8th of June, 1822, pretends that Captain Romer made to the boarding officer from the *Spark*, in answer to his inquiries whether Escandell and his men were

pirates. Escandell says that Romer answered they were *not*. Romer himself says that he supposed they were.

You will remark that in the copy of Escandell's affidavit, transmitted by Mr. Anduaga to the Department of State, the name of the Dutch captain of the *Neptune* is written Reinas Buman, apparent by a mistake in the copy. The name as signed by himself is Reynar Romer.

On a review of the whole transaction as demonstrated by these documents, it will be seen that the conduct of Captain Elton was fair, honorable, cautiously regardful of the possible rights of the captors and Spanish government, and eminently disinterested. He retook the *Neptune*, a Dutch vessel, at the request of an officer of the Dutch government. He had already known and protected her as a neutral before. He restored her to her captain without claiming salvage, and upon the sole condition that the Dutch governor should restore to their owners, citizens of the United States, the proceeds of a vessel and cargo, also wrongfully captured by a Spanish privateer, and which had been brought within her jurisdiction. And he provided that if the capture of the *Neptune* should eventually prove to have been lawfully made, the Dutch commandant and the captain of the *Neptune* himself should be responsible to the Spanish and American governments and to the captors for the result.

I have entered into this detail of the evidence in this case, not only to give you the means of satisfying the Spanish government that the complaints of Mr. Anduaga against Captain Elton were as groundless in substance as they were unjust to him, and disrespectful to this government and nation in form; but to vindicate from unmerited reproach the memory of a gallant officer, of whose faithful and valuable services his country had been deprived by death, only

twenty days before those dishonorable imputations were cast upon him by Mr. Anduaga.

The harshness and precipitation of that minister's judgment in preferring this complaint is the more remarkable, inasmuch as he avows in that very note the opinion that the bare word, without proof, of a *merchant* captain, is not evidence sufficient to furnish even a pretext to the naval officers of the United States to attack the armed vessel, by which he had been plundered. If the word of a captain of a merchant vessel, supported by his oath, were of such trivial account, of what weight in the scale of testimony is the bare word of a captain of a privateer, who cannot write his name, to prove the existence and authority of a written or printed document, pretended to have been given by himself?

If the capture of the *Neptune* by Puyol had been lawful, her owners would at this day possess the means of recovering indemnity for their loss by the recapture, in the written engagements of the Dutch commandant, Thieleman, and of Captain Romer. But it was not lawful. By the documents transmitted by Mr. Anduaga it appears, that a part of the cargo of the *Neptune*, after her capture by the *Virgen del Carmen*, had been transshipped to another vessel; and that at Porto Cabello it was condemned by Captain Lavorde, commander of the Spanish frigate *Ligera*, who had issued the privateer's commission, and then sat as judge of the Admiralty Court upon the prize. And the sole ground of condemnation assigned is the breach of the pretended blockade by the *Neptune*, and her *trading* with the independent patriots. You will remark the great irregularity and incompatibility with the principles of general justice, as well as of the Spanish constitution, that one and the same person should be acting at once in the capacity of a naval officer, of a magistrate issuing commissions to privateers, and of a

judge to decide upon the prizes taken by them. But the whole foundation of his decision is a nullity. The blockade was a public wrong. The interdiction of all trade was an outrage upon the rights of *all* neutral nations. And the resort to the two expedients bears on its face the demonstration, that they who assumed them both had no reliance upon the justice of either: for if the interdiction of all *neutral* trade with the independents were lawful, there could be as little occasion or pretence for the interdiction of the trade. The correctness of this reasoning can no longer be contested by the Spanish government itself. The blockade and interdiction of trade have, from the first notice of them, not only been denounced and protested against by the government and officers of the United States, but by those of Great Britain, even when the ally of Spain, and who has not yet acknowledged the independence of the revolted colonies. The consequences of these pretensions have been still more serious to Spain; since they terminated in a formal notification by the British government, that they had issued orders of reprisal to their squadrons in the West Indies, to capture all Spanish vessels, until satisfaction should be made for the property of all British subjects, taken or detained under color of this preposterous blockade and interdiction. And Spain has formally pledged herself to make this demanded reparation.

2. The second case of complaint by Mr. Anduaga, upon which I have to animadvert, is that of the capture of the Porto Rico privateer *Palmira*, by the United States armed schooner *Grampus*, Lieutenant Gregory commander. With his letter of the 11th of October, 1822, Mr. Anduaga transmitted copies of a letter from the captain of the privateer, *Escurra*, to the Spanish consul at Charleston, dated the 16th of September, 1822, and of sundry depositions taken at

Porto Rico, from seamen who had belonged to her, relating to the capture. The account of the transaction given by Lieutenant Gregory is among the documents to be transmitted to Congress with the President's message at the commencement of the last session, pp. 62, 63, 64, to which I refer.

The subject is yet before the competent judicial tribunal of this country. The captain and seamen of the *Palmira*, with the exception of those charged with the robbery of the *Coquette*, were discharged by a decree of the District Court of the United States at Charleston, and the vessel was restored to her captain; but the judge (Drayton, since deceased,) in giving this decree declared that Lieutenant Gregory had been fully justified in the capture. By a decree of the Circuit Court of the same district, heavy damages were awarded against Lieutenant Gregory, from which sentence there is an appeal pending before the Supreme Judicial Court of the United States. Whatever their final decision may be, the character of the court is a sure warrant that it will be given with every regard due to the rights and interests of all the parties concerned, and the most perfect reliance may be placed upon its justice, impartiality, and independence.

The decision of the Circuit Court indeed would imply some censure upon the conduct of Lieutenant Gregory, and may be represented as giving support to the complaints of the Spanish minister against him. But it is the opinion of a single judge, in direct opposition to that of his colleague on the same bench, and liable to the revisal and correction of the supreme tribunal. It is marked by two principles, upon which it may be fairly presumed the judgment of the Supreme Court will be more in accord with that of the District. The justification of Lieutenant Gregory, for taking and sending in the *Palmira*, rests upon two important

facts; first, the robbery committed by part of her crew, sworn to by Captain Souther of the schooner *Coquette*, and confirmed by the oaths of her mate and two of her seamen; and secondly, that at the time of her capture she had commenced the firing upon the *Grampus*, by a full volley from small arms and cannon. But as the *fact* of the robbery from the *Coquette* was not in rigorously judicial evidence before the Circuit Court, the judge declared, that although he had no doubt the fact was true, yet in the absence of the evidence to prove it he must *officially* decide that it was false; and as to the circumstance of the first fire, as the Spanish and American testimony were in contradiction to each other, he should set them both aside, and form his decision upon other principles. If indeed Lieutenant Gregory is ultimately to be deprived of the benefit of these two facts, he will be left *judicially* without justification. But considered with reference to the discharge of his duty as an officer of the United States, if the declaration of Captain Souther taken upon oath, confirmed by those of his mate and two of his men, was not competent testimony upon which he was bound to act, upon what evidence could an officer of the navy ever dare to execute his instructions and the law, by rescuing or protecting from the robbers of the sea, the property of his fellow citizens?

The robbery of the *Coquette* by the boats' crew from the *Palmira* is assuredly sufficiently proved for all other than judicial purposes, by the fact which was in evidence before the District Court, that the memorandum book sworn by John Peabody, junior, mate of the *Coquette*, to have been taken from him together with clothing, was actually found in a bag with clothing on board the *Palmira*.

In answering Mr. Anduaga's letter of 11 October, I transmitted to him a copy of the printed decree of Judge Drayton,

in which the most material facts relating to the case, and the principles applicable to it upon which his decision was given, are set forth. Some additional facts are disclosed in a statement published by Lieutenant Gregory, highly important to *this* discussion, inasmuch as they identify a portion of the crew of the *Palmira*, with a gang of the Cape Antonio pirates, and with an establishment of the same character which had before been broken up by that officer.

In a long and elaborate reply to my letter dated the 11th of December, 1822, Mr. Anduaga, without contesting the fact that the *Coquette* had been robbed by the boarding crew from the *Palmira*, objects to the decision of Judge Drayton, as if, by detaining for trial the individual seamen belonging to the *Palmira*, charged with the robbery, it assumed a jurisdiction, disclaimed by any acknowledgment that the privateer was lawfully commissioned, and sanctioned the right of search, so long and so strenuously resisted by the American government. In this reply, too, Mr. Anduaga attempts by laborious arguments to maintain to the fullest and most unqualified extent the right of the Spanish privateers to capture, and of the Spanish prize courts to condemn, all vessels of every other nation, trading with any of the ports of the independent patriots of South America, because under the old colonial laws of Spain that trade had been prohibited. And with the consistency of candor at least, he explicitly says that the decrees issued by the Spanish commanders on the main, under the name of blockades, were not properly so called, but were mere enforcements of the antediluvian colonial exclusions, and such were the instructions under which the *Palmira*, and all the other privateers from Porto Rico and Porto Cabello have been cruising. Is it surprising that the final answer of Great Britain to this pretension was an order of *reprisals?* or that under the laws

of the United States it has brought their naval officers in conflict of actual hostility with privateers so commissioned and so instructed? The Spanish government have for many years had notice, both from Great Britain and from the United States, that they considered as rightful the peaceful commerce of their people, with the ports in possession of the independent patriots. Spain herself has opened most of those of which her forces have been able to retain or to recover the possession. The blockades proclaimed by General Morillo in 1815 were coupled with this same absurd pretension: they were formally protested against by the government of the United States; and wherever Morillo obtained possession, he himself immediately opened the port to foreign and neutral commerce.

Mr. Anduaga seems to have had much confidence in the conclusiveness of his reasoning, in this letter of 11 December: for without considering the character of our institutions, which have committed to the executive authority all communications with the ministers of foreign powers, he permitted himself the request that the President would communicate it to Congress; without having the apology for this indiscretion, which on a prior occasion he had alleged for a like request, namely, that it was in answer to letters from this Department which *had* been communicated to the legislature. In the former case he was indulged by compliance with his request. In the latter it was passed over without notice. But Mr. Anduaga was determined that his argument should come before the public, and sent a copy of it to the Havana, where it was published in the newspapers; whence it has been translated and inserted in some of our public journals.

The British order of reprisals; the appropriation by the Cortes of forty millions of reals for reparation to British

subjects, of damages sustained by them, in part from capture and condemnation of their property under this absurd pretension; and the formal revocation by the king of Spain of these unlawful blockades, will, it is presumed, supersede the necessity of a serious argument in reply to that of Mr. Anduaga upon this point. It is in vain for Spain to pretend that during the existence of a civil war, in which by the universal law of nations, both parties have equal rights with reference to foreign nations, she can enforce against all neutrals by the seizure and condemnation of their property, the laws of colonial monopoly and prohibition, by which they had been excluded from commercial intercourse with the colonies before the existence of the war, and when her possession and authority were alike undisputed. And if at any stage of the war, this pretension could have been advanced with any color of reason, it was preëminently nugatory on the renewal of the war, after the formal treaty between Morillo and Bolivar, and the express stipulation which it contained, that if the war should be renewed, it should be conducted on the principles applicable to wars between independent nations; and not on the disgusting and sanguinary doctrine of suppressing rebellion.

As little foundation is there for the inference drawn by Mr. Anduaga from the decree of the District judge, admitting the *Palmira* to have been lawfully commissioned as a privateer, but detaining for trial the portion of her crew charged with the robbery from the *Coquette*, that it sanctions the right of search, against which the United States have so long and so constantly protested. For in the first place, the United States have never disputed the belligerent right of search as required and universally practised conformably to the laws of nations. They have disputed the right of belligerents under *color* of the right of search for contraband

of war, to seize and carry away *men*, at the discretion of the boarding officer, without trial and without appeal; men, not as contraband of war, or belonging to the enemy, but as subjects, real or pretended, of the belligerent himself, and to be used by him against his enemy. It is the fundamental abuse of the right of search, for purposes never recognized or admitted by the laws of nations, purposes in their practical operation of the greatest oppression and most crying injustice, that the United States have resisted and will resist, and which warns them against assenting to the extension in time of peace of a right which experience has shown to be liable to such gross perversion in time of war. And secondly the *Palmira* was taken for acts of *piratical* aggression and *depredation* upon a vessel of the United States, and upon the property of their citizens. Acts of *piratical* aggression and depredation may be committed by vessels having lawful commissions as privateers, and many such had been committed by the *Palmira*. The act of robbery from the *Coquette* was in every respect piratical; for it was committed while the privateer was under the Venezuelan flag, and under that flag she had fired upon the *Coquette* and brought her to. It was piratical, therefore, not only as depredation of the property by the boat's crew who took it away, but as aggression under the sanction of the captain of the privateer, who was exercising belligerent rights under false colors. To combat under any other flag than that of the nation by which she is commissioned, by the laws of nations subjects a vessel, though lawfully commissioned, to seizure and condemnation as a pirate; [1] and although the decree of the District judge ordered the restitution of the vessel to her captain, because it held him to have been lawfully commissioned, neither did the law of nations require,

[1] Valin, *Ordonnance de la Marine*, II. 239.

nor would the law of the United States permit, that men, brought within the jurisdiction of the court, and charged with piratical depredations upon citizens of the United States, should be discharged and turned over to a foreign tribunal for trial, as was demanded by Mr. Anduaga. They had been brought within the jurisdiction of the court, not by the exercise of any right of search, but as part of the crew of a vessel which had committed piratical depredations and aggressions upon vessels and citizens of the United States. The District Court adjudging the commission of the privateer to have been lawful, and considering the gun fired under the Venezuelan flag to bring the *Coquette* to, though wrongful and unwarrantable, as not amounting rigorously to that *combat*, which would have been complete piracy, discharged the captain and portion of the crew which had not been guilty of the robbery of the *Coquette*, but reserved for trial the individuals charged with that act.

The conduct of the *Palmira*, for months before her capture, had been notoriously and flagrantly piratical. She had in company with another privateer, named the *Boves*, both commanded by the same captain, Pablo Llanger, fired upon the United States schooner *Porpoise*, Captain Ramage, who abstained from returning the fire. For this act of unequivocal hostility, Captain Llanger's only apology to Captain Ramage was that he had taken the *Porpoise* for a patriot cruiser.[1] Numbers of neutral vessels of different nations had been plundered by her; and among the affidavits made to Lieutenant Gregory at St. Thomas, was one of the master and mate of a French schooner, that she had been robbed by a boat's crew from her of a barrel of beef and a barrel of rice. In the letter from Captain Escurra to the Spanish consul at Charleston, he admits the taking of these provi-

[1] See Documents with the President's message of December, 1822, p. 65.

sions, alleging that the master of the French vessel gave them to him at his own request. The affidavit of the French master and mate shows what sort of a *gift* it was, and is more coincident with all the other transactions of this privateer.

In the same letter of 11 December, Mr. Anduaga with more ingenuity than candor, attempts at once to raise a wall of separation between the pirates of Cuba, and the privateersmen of Porto Rico and Porto Cabello, and to identify the pirates, not only with all those who at a prior period, had abused the several independent flags of South America, but with the adventurers from the United States who at different times have engaged in the patriot service; and he endeavors to blend them all with the foolish expedition of last summer against Porto Rico. While indulging his propensity to complain, he revives all the long exploded and groundless charges of his predecessors in former years, and does not scruple to insinuate that the Cuba pirates themselves are North Americans from the United States.

It is easy to discern and point out the fallacy of these endeavors to blend together things totally distinct, and to discriminate between things that are identical. It is in proof before our tribunals in the case of the *Palmira* itself that some of the pirates of Cuba and of the Porto Rico privateersmen, are the same. Among the Cuba pirates that have been taken, as well by the vessels of the United States as by British cruisers, *not one* North American has been found. A number of those pirates have been executed at the Bahama Islands, and ten from one vessel at the island of Jamaica, all Spanish subjects, and from the Spanish islands. Not a shadow of evidence has been seen that among the Cuba pirates a single citizen of the United States was to be found.

As to the complaints of Mr. Anduaga's predecessors,

meaning those of Don Luis de Onis, it might have been expected that we should hear no more of them after the ratification of the treaty of 1819. Whatever had been the merits of those complaints, full satisfaction for them all had been made by that treaty to Spain, and was acknowledged by the ratification of the Spanish government in October, 1820. Since that time no complaints had been made by Mr. Anduaga's predecessors. It was reserved for him, as well to call up those phantoms from the dead, as to conjure new ones from the living. That supplies of every kind, including arms, and other implements of war have been in the way of lawful commerce procured within the United States for the account of the South America independents, and at their expense and hazard exported to them is doubtless true. And Spain has enjoyed and availed herself of the same advantages.

The neutrality of the United States has throughout this contest between Spain and South America been cautiously and faithfully observed by their government. But the complaints of Mr. Anduaga, as well as those of his predecessor, Mr. Onis, are founded upon erroneous views and mistaken principles of neutrality. They assume that all *commerce*, even the most peaceful commerce of other nations, with the South Americans is a violation of neutrality; and while they assert this in principle, the Spanish commanders, in the few places where they yet hold authority, attempt to carry it into effect in a spirit worthy of itself. The decree of General Morales of the 15th of September, 1822, is in perfect accord with the argument of Mr. Anduaga, on the 11th of December of the same year. The unconcerted but concurring solemn protests against the former; of the Dutch governor of Curaçao, Cantzlaer; of the British admiral Rowley, and of our own Captain Spencer, was but the chorus

of all human feeling revolting at the acts of which Mr. Anduaga's reasoning was the attempted justification.

3. The next case of complaint by Mr. Anduaga is in a letter of the 23d of February last, against Lieutenant Wilkinson, commander of the United States armed schooner *Spark*, for capturing off the Havana a vessel called the *Ninfa Catalana*, or the *Santissima Trinidad*, Nicholas Garyole master, and sending her into Norfolk. As there are reasons for believing that in this case Lieutenant Wilkinson acted upon erroneous information, a court of inquiry has been ordered upon his conduct, the result of which will be communicated to you.

The *Ninfa Catalana* remains for trial at the District Court to be held in the Eastern District of Virginia in the course of the next month. Immediately after receiving Mr. Anduaga's letter on the subject, I wrote to the attorney of the United States for the District instructing him to obtain, if possible, an extraordinary session of the court, that the cause might be decided without delay; but the judge declined appointing such session, unless all the witnesses summoned to the court upon the case could be notified of it, which not being practicable, the short delay till the meeting of the regular session of the court has been unavoidable. You will assure the Spanish government that the most impartial justice will be rendered to all the parties concerned, as well by the adjudication of the Admiralty Court as by the military enquiry on the conduct of Lieutenant Wilkinson. I ought to add that no evidence hitherto has come to the knowledge of the government which has implicated the correctness of Lieutenant Wilkinson's intentions, or manifested any other motive than that of discharging his duty and protecting the property of his fellow citizens.

4. The capture of the Spanish schooner *Carmen* alias *Gallega the Third* by the United States sloop of war *Peacock*, Captain Cassin, has furnished the fourth occasion for this class of Mr. Anduaga's remonstrances.

There are two declarations or depositions made by the captain and persons who were on board of this vessel at the time of her capture, one at Pensacola and the other at New Orleans. The first before the notary José Ecaro, by Jacinto Correa, Captain of the *Gallega*, the pilot Ramon Echaverria, boatswain Manuel Agacis, three sailors, and Juan Martin Ferreyro, a passenger. All the witnesses after the first only confirm in general and unqualified terms *all* his statements; although many of the circumstances asserted by him as facts could not have been personally known to himself, but by hearing from some of them. The protest for example avers that when first captured by the *Peacock*, Captain Correa, with his steward and cook were taken on board that vessel; and while they were there he represents various disorders to have been committed on board of his own vessel, by the boarding officer from the *Peacock*, though by his own showing he was not present to witness them. His whole narrative is composed of alleged occurrences on board of three vessels, the *Peacock*, the *Louisiana* cutter, and the *Gallega*, and no discrimination is made between those of his own knowledge, and those which he had heard from others. The second declaration was made before Antonio Argote Villalobos, Spanish consul at New Orleans, only by Captain Correa and Echaverria the mate, and gives an account of several other Spanish vessels, captured by the *Peacock*, while they were on board of that vessel as prisoners. A very inadequate reason is assigned by Captain Correa for not having made it at the same time with the first at Pensacola; and the whole purport of it is to represent those

other vessels which he had seen captured, as inoffensive unarmed vessels, and the capture of them by the *Peacock* as itself piratical.

Copies of the proceedings in the courts at Pensacola and at New Orleans upon these cases are expected at this Department, and the substance of them will be duly communicated to you. In the meantime the reports of Captain Cassin of the *Peacock*, and of Captain Jackson, commander of the revenue cutter *Louisiana* to the Navy Department, will give you a very different, and doubtless more correct account of these transactions.

There is strong reason for believing that the *Gallega* did actually belong to the gang of pirates, of which those pretended inoffensive and unarmed vessels certainly formed a part. That Correa and Echaverria were testifying in behalf of their accomplices; and their warm sympathy with those convicted pirates is much more indicative of their own guilt than of their belief in the innocence of the others.

That the *other* vessels were piratical, is no longer a subject of question or dispute. Two of them were carried by Captain Cassin to the Havana, where one of them, a schooner of nine guns, was claimed by a lady, widow of a merchant in that city, as her property; and at her application, supported by that of the captain general, was restored to her upon payment of $1000 salvage. The part of the cargo which had been saved was sold in like manner, with the approbation of the Captain General. The vessel had been taken by the pirates but a few days before, and in retaking and restoring her to the owner, Captain Cassin had not only rendered an important service to a Spanish subject, but taken from the pirates the means of committing more extensive and atrocious depredations.

Among the articles found on board of these vessels were

some of female apparel, rent and blood-stained; and many other traces to deeds of horror, with which these desperate wretches are known to be familiar. The pirates had, when close pursued abandoned their vessels and escaped to the shore. They were pursued, but not discovered. The coffee was hidden in the woods, and with the vessel brought into New Orleans, had been regularly condemned by the sentence of the court.

And these are the characters, and this the description of people whom Captain Correa and his mate, Echaverria, represent in their declaration before the Spanish consul at New Orleans, as innocent Spanish subjects piratically plundered of their lawful property, by Captain Cassin. And upon such testimony as this has Mr. Anduaga suffered himself to be instigated to a style of invective and reproach not only against that officer, but against the officers of our navy generally, against the government and people of this country, upon which, while pointing it out and marking its contrast with the real facts of the case, I forbear all further comment.

Let it be admitted that the *Catalan Nymph* and the *Gallega* were lawful traders, and that in capturing them as pirates Lieutenant Wilkinson and Captain Cassin have been mistaken. That they had probable cause sufficient for their justification I cannot doubt, and am persuaded will upon a full investigation of the cases be made apparent.

In the impartial consideration of this subject it is necessary to advert to the *character* of these pirates, and to the circumstances which have made it so difficult to distinguish between lawfully commissioned and registered Spanish vessels and the pirates.

The first of these has been the unlawful extent given to the commissions and instructions of the privateers avowed

by the Spanish government; an authority to take all commercial vessels bound to any of the ports in possession of the patriots. The very assumption of this principle, and the countenance given to it by the adjudications of the courts was enough to kindle all the passions of lawless rapine in the maritime population of the islands. It was holding out to them the whole commerce of the neutral world as lawful prey.

The next is the impunity with which those robberies have been committed in the very port of the Havana, and under the eye of the local government. It is represented and believed to be true that many inhabitants of the city, merchants in respectable standing of society, are actively concerned in these transactions; that of the village of Regla opposite the city, almost all the inhabitants are with public notoriety concerned in them; that some of the deepest criminals are known and pointed at; while the vigilance or energy of the government is so deficient that there is an open market for the sale of those fruits of robbery; and that threats of vengeance are heard from the most abandoned of the culprits against all who molest them in their nefarious and bloody career.

The third is that many of the piracies have been committed by merchant vessels, laden with cargoes. The Spanish vessels of that description in the islands are all armed, and, when taken by the pirates, are immediately converted to their own purposes. The schooner of nine guns taken by Captain Cassin, and restored to its owner in the Havana, affords one proof of this fact; and one of the most atrocious piracies committed upon citizens of the United States was that upon the *Lady's Delight* by the *Zaragosana*, a vessel regularly cleared at the Havana as a merchant vessel.

There are herewith furnished you copies of the general instructions from the Secretary of the Navy, given to all our naval officers, successively stationed in those seas, for the protection of our commerce and for carrying into effect the laws against piracy and the slave trade, together with printed copies of those laws. They will enable you to present to the Spanish government the most conclusive proof of the friendly sentiments towards Spain, and of the undeviating regard to her rights which have constantly animated this government, and effectually to counteract any representations of a different character which may be made by Mr. Anduaga.

In reflecting upon the conduct of this minister during his residence in the United States, it has been impossible to avoid the suspicion that it has been instigated by a disposition not more friendly to the existing liberal institutions of his own country, than to the harmonious intercourse to which they were so well calculated to contribute between the United States and Spain. From the time of the re-establishment in Spain of a constitutional government, the sympathies of this country have been warm, earnest and unanimous in favor of her freedom and independence. The principles which she asserts and maintains are emphatically ours, and in the conflict with which she is now threatened, for supporting them, a cordial good understanding with us was as obviously the dictate of her policy, as it was the leading principle of ours. This national sentiment has not been silent or unobserved. It was embodied and expressed in the most public and solemn manner in the message to Congress at the commencement of their last session, as will be within your recollection. The conduct of the government has been invariably conformable to it. The recognition of the South American governments, flowing from the same principle

which enlisted all our feelings in the cause of Spain, has been in its effects a mere formality; it has in no wise changed our actual relations, either with them or with Spain. All the European powers, even those which have hitherto most strenuously denied the recognition in *form*, have treated and will treat the South Americans as independent in fact. By his protest against the formal acknowledgment Mr. Anduaga had fulfilled his duties to his own government, nor has any one circumstance arisen from that event which could require of him to recur to it as a subject of difference between us and Spain again. We have not been disposed to complain of his protest, nor even of his permanent residence at a distance from the seat of government; but the avidity with which he has seized upon every incident which could cause unpleasant feelings between the two countries, the bitterness with which his continual notes have endeavored to exasperate and envenom, the misrepresentations of others, which he has so precipitously assumed as undeniable facts, and the language in which he has vented his reproaches upon the fair and honorable characters of our naval officers, upon the government, and even the people of this Union, and above all, the artifice by which he suffered the absurd and ridiculous expedition of De Coudray Holstein to obtain some paltry supplies of men and arms in this country, without giving notice of it to this government, when they might have effectually broken it up, leaving it unknown to us till after its inevitable failure, when he could trump it up as a premeditated hostility of ours against Spain, and a profligate project of invasion of her possessions, are indications of a temper which we can trace to no source, either of friendly feeling towards our country, or of patriotic devotion to his own. It has the aspect of a deliberate purpose to stir up and inflame dissensions between the United States and Spain; to produce

and cherish every means of alienation and distrust between them, with ultimate views to the counteraction of these differences upon the internal administration and government of his own nation.

It is hoped that he will in no event be permitted to return hither; and in the full and just explanations which you will now be enabled to give upon every complaint exhibited by him while here, the Spanish government will be satisfied with the justice, and convinced of the friendly disposition towards Spain, which have governed all our conduct.

With the same spirit, and the just expectation that it will be met with a reciprocal return, you will represent to them the claim of all the citizens of the United States, whose vessels and other property have been captured by the privateers from Porto Rico and Porto Cabello, and condemned by the courts of those places, for supposed breaches of the pretended blockade, or for *trading* with the South American independents. Restitution or indemnity is due to them all; and is immediately due by the Spanish government, inasmuch as those injuries having been sanctioned by the local authorities, military and civil, the sufferers in most of the cases can have no resort to the individuals by whom the captures were made. A list of all the cases which have come yet to the knowledge of this Department is now enclosed. There are probably many others. An agent will be shortly sent to collect at the respective places the evidence in all the cases not already known, and to obtain as far as may be practicable restitution by the local authorities. Whatever may be restored by them will diminish by so much the amount of claim upon the Spanish government, which will be the more indisputable, as they have already admitted the justice, and made provision for the satisfaction of claims of British subjects, which sprung from the same cause.

Of the formal revocation by the Spanish government of the nominal blockade, the governor of Porto Rico has given express notice to Commodore Porter. As a consequence of this it is hoped that no more commissions for privateers will be issued. The revocation did indeed come at a critical time, for it cannot be too strongly impressed upon the Spanish government, that all the causes of complaint, both by Spanish subjects against the navy officers of the United States, and by the citizens of the United States, with which you are now charged, proceeded directly or as a consequence from those spurious blockades. They were in violation of the laws of nations. They were in conflict with the law of Congress for protecting the commerce of the United States. It was impossible that ships of war of the United States, with commanders instructed to carry that law into execution, and Spanish privateers, commissioned and instructed to carry into effect the atrocious decree of General Morales, should meet and fulfil their respective instructions without hostile collision. The decree of General Morales constituted all these Spanish subjects who acted under it in a state of war *de facto* with all neutral nations; and on the sea it was a war of extermination against all neutral commerce. It is to the responsibility of her own officers, therefore, that Spain must look for indemnity to the wrongs endured by her own subjects, as necessary consequences of their official acts, as well as for the source of her obligation to indemnify all the innocent sufferers under them, who are entitled to the protection of other nations.

You will take an immediate opportunity after your reception to urge upon the Spanish government, the absolute necessity of a more vigorous and energetic exercise of the local authorities in the island of Cuba, for the suppression of the piracies by which it is yet infested. Their professions of

coöperation with the naval force of the United States to this object have not been followed up by corresponding action. As long since as last May, Captain Biddle, then commanding the *Macedonian* frigate, represented to the Captain General, Mahy, the necessity that would frequently arise of pursuing them from their boats to the shores on the desert and uninhabited parts of the island, and requested permission to land for such purpose, which was explicitly refused. Mr. Forsyth has been instructed to renew the demand of this permission, to the Spanish government itself, and as there are cases in which the necessity will constitute the right of anticipating that permission, Commodore Porter has been instructed accordingly. From a recent debate in the British Parliament it appears that similar instructions have been given to the commanders of the British squadrons, despatched for the protection of the commerce of that nation, and that when notified to the Spanish government, although at first resisted by them, they finally obtained their acquiescence. These circumstances will serve for answer to one of the most aggravated complaints of Mr. Anduaga against Captain Cassin. That officer did land, and although not successful in overtaking the pirates themselves, he did break up one of the deposits of their lawless plunder, burnt several of their boats, and took from them two of their armed vessels. Mr. Anduaga sees in all this nothing but a *violation of his Catholic Majesty's territory;* a sentiment on such an occasion which would be more suitable for an accessary to the pirates, than for the officer of a government deeply and earnestly intent upon their suppression.

From the highly esteemed and honorable character of General Vivês, who has probably before this arrived at the Havana, as Governor and Captain General of the island, we hope for more effectual coöperation to this most desirable

event. There has been according to every account a laxity and remissness on that subject in the executive authority of that port, which we hope will no longer be seen. The boldness and notoriety with which crimes of such desperate die are committed in the very face of authority is of itself irrefragable proof of its own imbecility or weakness. Spain must be sensible that she is answerable to the world for the repression of crimes committed within her jurisdiction, and of which the people of other nations are almost exclusively the victims. The pirates have generally, though not universally, abstained from annoying Spanish subjects, and from the robbery of Spanish property. It is surely within the competency of the government of Cuba to put down that open market of the pirates which has so long been denounced at the Havana. It appears that masters of American vessels which had been robbed have seen their own property openly exposed to sale in that city; but have been dissuaded from reclaiming it by the warning that it would expose them to the danger of assassination. One instance at least has occurred of unpunished murder of a citizen of the United States, for the indiscreet expression of his expectation that the arrival of Commodore Porter's squadron would secure more respect to the persons and property of American citizens; and other cases have happened of outrages upon citizens of the United States, in which the protecting power of the government has been deficient at least in promptitude and vigor.

To the irritation between the people of the two nations, produced by the consequences of the abominable decree of General Morales, must be attributed that base and dastardly spirit of revenge which recently actuated a Spanish subaltern officer at Porto Rico, by which Lieutenant Cocke lost his life. Copies of the correspondence between Commodore

Porter and the governor of Porto Rico on that occasion are among the enclosed papers. They will show that the act of firing upon the *Fox* was utterly wanton and inexcusable, and the President desires that you would expressly demand that the officer by whom it was ordered should be brought to trial and punishment for having ordered it.

There are several subjects connected with the execution of the treaty of 22 February, 1819, upon which it may be proper to advert as being likely to claim your attention.

On the delivery of the two provinces of the Floridas to the United States, by virtue of stipulations of that treaty, a question arose, whether under the term *fortifications*, which were to be delivered over, with them was included the artillery, without which they could not with propriety bear the name. By another article of the treaty it was agreed that the United States should furnish *transports* for the conveyance of the Spanish officers and troops to the Havana. Under this engagement the Spanish officers understood it was *implied* that the *provisions* necessary for the passage should also be furnished at the expense of the United States. In this liberal construction of that article this government acquiesced, insisting however that on that same principle provisions for the passage would be understood as implied in an engagement to supply the passage itself, the ordnance which constituted the essential part of the fortifications must be considered as embraced by the word, and that the United States were entitled to claim its delivery with the buildings, which without it would substantially be no fortifications at all. The Spanish officers at Pensacola and St. Augustine objected to this liberal construction of the article which imposed an obligation upon Spain, while they insisted upon it with regard to the article in her favor. It was therefore agreed, both at Pensacola and St. Augustine, that the

artillery in the forts should be left there; receipts for it being given by General Jackson and Colonel Butler, leaving the question as to the property in them to the determination of the two governments. A correspondence ensued between this Department and the Spanish legation here, and between the Ministers of Foreign Affairs and our legation at Madrid, the last document of which is a note of 3 September, 1822, from Don Evaristo San Miguel to Mr. Forsyth; from whom, as well as from Mr. Anduaga, separate copies of it have been transmitted to this Department. This note announces his Catholic Majesty's final determination to abide by the *strict* construction of both the articles in question, on the acknowledgment that the value of the cannon is more than the cost of the provisions. It therefore proposes that the cannon should be restored to Spain, and offers to repay the expense incurred by the United States for the provisions; or it offers to receive proposals for the purchase by the United States of the cannon, and, if necessary, to sell them at a fair appraisement by competent persons to be appointed by the two governments; and after deducting the amount paid by the United States for the provisions, to receive the balance.

In the compacts between nations, as in the bargains of individuals, the most essential requisites are candor and fair-dealing. The comparative *value* of the cannon in the forts, and of the provisions for the passage of the Spanish troops, formed no part of the considerations, upon which the artillery was claimed by the United States, together with the walls of which they formed the defence. It was to the *principle* alone that our attention was turned. The officers of Spain, under a stipulation for *passage*, claimed a supply of provisions. Acquiescing in that liberal construction of our engagement which would warrant them in the claim, we thought it in fairness and reciprocity applicable to another

article, the benefit of which would enure to the United States. In the course of the discussion no distinction has been shown on the part of Spain that could justify a different rule of construction for the two articles. In both cases the *incident* was so essential to the main object of the stipulation, as to be inseparable from its existence and accomplishment. The passage without provisions was impracticable. The walls without their artillery were no fortifications. If in one case the implication was just, it was indispensable in the other. But we do not wish to press this controversy further. You are authorized to signify to the Spanish government the acceptance of the proposal contained in Mr. San Miguel's note; and that on the repayment by the Spanish government of the money paid by the United States for provisions for the Spanish officers and troops from the Floridas to the Havana, the ordnance left behind and receipted for by General Jackson and Colonel Butler will be delivered up to the order of the Governor of Cuba, or to any officer duly authorized to receive it.

There is in the note of Mr. San Miguel a complaint somewhat gratuitous, that the American government had not in the first instant adjusted this question with the Spanish minister at Washington, or afterwards prevented the compromise between the commissioners of the two governments at the delivery of the provinces.

The government of the United States was not informed that the Spanish minister here had any authority to discuss the mode of execution with regard to the delivery of the territory. It was not to him but to the governor and captain general of the island of Cuba that the royal order for the delivery was addressed; nor was it supposed that he had or could have any instructions authorizing him to settle any question of construction which might arise in the details of

the execution. That a question might arise, both with regard to the provisions and to the artillery was foreseen; but there was no necessity for anticipating it by a reference to the Spanish minister, when it might not arise at all, and who, if it should, had no power to settle it. The suggestion of it as a question to *him* could in all probability tend only to *delay* the delivery itself of the Floridas. For if his views of the construction of the article concerning the fortifications should differ from those of this government, he could only refer it to his own, and in the meantime the delivery of the country must be postponed, or accepted by the United States, subject to the construction of the Spanish envoy. The American government had no motive for starting questions which might be turned to purposes of delay. It was sufficient for them to proceed upon principles, fair and equitable in themselves, and to foresee questions of instruction only so far as to preclude the admission of one rule when its operation would be against the United States, and of another when its effect would be in their favor. When the question between the commissioners had arisen, it was not more in the power of this government to prevent the compromise upon which they agreed than it was in that of Spain; a reference of it prior to the delivery might have been made to Madrid, in little more time than to Washington; and the intimation of Mr. San Miguel, that the unfortunate disputes in which the ex-governors of St. Augustine and Pensacola were involved, and which issued in occurrences personally unpleasant to them, originated in this compromise concerning the artillery, is founded upon erroneous impressions. Those incidents, much and sincerely lamented by us, arose from the non-delivery, deliberate, concerted and systematic, by the late Captain General Mahy, and by both the governors of St. Augustine and Pensacola of the *Archives*

and *Documents* which they were required by an express stipulation of the treaty and an explicit order of the king of Spain to deliver up. The governor of Cuba, after informing Colonel Forbes, who was commissioned to receive that portion of those Archives and Documents which were at the Havana, that twenty boxes of documents had been sent there from Pensacola relating to West Florida, and that all those relating to East Florida were at St. Augustine, and after detaining Colonel Forbes at the Havana nearly six weeks, in the daily protracted expectation of delivering them, finally obliged him with exhausted patience to depart without the former, and with an explicit assurance that he had instructed the governor of St. Augustine to deliver the latter. Yet the governor of St. Augustine refused to deliver them on the allegation of doubts, whether the engagement of the treaty extended to the delivery of *any* public documents or archives, relating to private property. This extraordinary effort to withhold and to carry away all the records of land titles of both the provinces, has been the fruitful source of all those subsequent misunderstandings and painful occurrences to which Mr. San Miguel's note alludes, and it commenced on the part of the governor of Cuba, long before any question relating to the delivery of the artillery had occurred.

Mr. Thomas Randall is now about to proceed to the Havana, charged with a new commission to demand and receive the archives and documents yet remaining there, and of which, as Mr. Forsyth was informed, a new royal order has been expedited to command the delivery. There are also many at Madrid, in the office of the Ultra-Marine Department, which Mr. Forsyth has taken measures at different times to obtain, hitherto without success. You will learn the state of this concern upon your arrival, and as

occasions may present themselves, will give it all the attention it may require.

By the fourth article of the treaty of 22 February, 1819, provision was made for the appointment of commissioners and surveyors to run the boundary line between the United States and the then adjoining Spanish provinces, from the mouth of the Sabine River to the South Sea. They were to meet at Natchitoches within one year from the ratification of the treaty; but the appointment of the Spanish commissioner and surveyor, though repeatedly urged by Mr. Forsyth upon the Spanish government, was not made in seasonable time, and the revolution in Mexico, having soon after demolished the Spanish dominion in that country, it became doubtful whether that article of the treaty could be carried into execution. There was some hesitation in Congress, and different votes between the two Houses with regard to making the appropriation for that purpose. The appropriation was however made, and the appointment of the commissioner and surveyor on the part of the United States was made known to Mr. Anduaga, and also, through Mr. Forsyth, to the Spanish government; with notice that we were ready to proceed in the measures agreed upon for carrying the article into execution. No further notice of the subject has been taken by the Spanish government, nor have we been informed who were the commissioner and surveyor appointed by them. It will not be necessary for you to revive the subject by any communication to that government, unless it should be brought up on their part. The new government of Mexico since the revolution there has made known its assent to the boundary as marked out by the treaty, and it is probable that Spain will henceforth have no interest in the settlement of the line. It may form a subject of further arrangement between us and our immediate neighbors hereafter.

Of the other subjects of discussion with Spain, which may require your official notice, you will be informed by Mr. John James Appleton, remaining there charged with the affairs of the legation after the departure of Mr. Forsyth, and by the archives of the legation, which he will deliver over to you. The laws relating to commerce since the restoration of the Cortes have been rather restrictive than favorable to the relations between the United States and Spain. You will be specially attentive to all negotiations, whether commercial or political, in which Spain may be concerned, during the continuance of your mission; transmit to this Department two copies of every treaty, printed by authority, immediately after its publication, and copies by duplicate of all conventions, treaties, separate articles, or other diplomatic communications, of which you may acquire the knowledge, and which you can obtain without expense or charge.

An object of considerable importance will be to obtain the admission of *consuls* from the United States in the ports of the colonies, specially in the islands of Cuba and of Porto Rico. It was incidental to the old colonial system of Spain, which excluded all commerce of foreign nations with her colonies, to admit in their ports no foreign consuls. The special duties and functions of those officers, consisting in the protection of the commerce, navigation, and seamen of their respective countries in the ports where they reside, it was a natural and necessary consequence of the exclusive colonial principle, that where no commerce was allowed to foreign nations, there could be no duties for a foreign consul to perform, and no occasion for the acknowledgment of such an officer. But when the colonial ports were opened to foreign trade, all the *reasons* which recommend, and all the necessities which urge the appointment and admission of foreign consuls to reside in them, apply as forcibly to those

ports as to any others. The commerce between the United States and the Havana is of greater amount and value than with all the Spanish dominions in Europe. The number of American vessels which enter there is annually several hundreds. Their seamen from the unhealthiness of the climate are peculiarly exposed to need there the assistance which it is a primary purpose of the consular office to supply; nor is there any conceivable motive for continuing to maintain the pretension to exclude them, and to refuse the formal acknowledgment of consuls. Informal commercial agents have in many of the ports been allowed to reside, and partially to perform the consular duties; but as they are thus left much dependent on the will of the local government, and subject to control at its pleasure, they have neither the dignity nor authority which properly belongs to the office. There has already been much correspondence between Mr. Forsyth and the Spanish Department of Foreign Affairs on this subject. You will follow it up as there may be opportunity, till a definitive answer shall be obtained. . . .

TO THE PRESIDENT

[James Monroe]

Washington, 4 May, 1823.

Dear Sir:

I enclose herewith the private letter from Mr. Erving, noticed in your note of this morning. The public dispatch I will bring or send you tomorrow.[1]

The answer to Mr. Salmon's note shall be made conformable to your suggestion. I have resumed the subject

[1] On his intention to resign.

in the draft of Instructions to Mr. Nelson, and shall submit for your consideration what I have thought it would be proper to say of it in them.

I thank you for the notice that you have understood Mr. Meade has some document from Mr. Onis, and also from Mr. De Neuville to show that his case was in the contemplation of the negotiations, pending the negotiation connected in some form with the navigation of the Mississippi, and ask the further favor of knowing from *whom* you received the information, and *what* the purport of these documents is alleged to have been? [1]

I have not heard from Colonel Preston but will write to him tomorrow. Inclosed is a letter also for you from Mr. Rush this day received.

Faithfully and respectfully yours.

TO THE PRESIDENT

[James Monroe]

Washington, 10th May, 1823.

Dear Sir:

I enclose herewith for your consideration and revisal the draft of general instructions to Mr. Rodney as Minister to Buenos Ayres. I shall now proceed to prepare those for Mr. Anderson destined to the Republic of Colombia, in which I propose to take the review of the conduct of this government in relation to the contest between Spain and her American Colonies recommended in your note of the 30th of April. I had the honor of suggesting to you the reasons for omitting it from the instructions to Mr. Rodney.

[1] No reply to this question is on file.

The foundations of the future permanent intercourse political and commercial between the United States and the new Spanish American nations must be laid in the instructions for these diplomatic missions, and they will form in the history of this union a prominent feature in the character of *your* administration. I am exceedingly anxious therefore not only that they should meet your approbation but that they should fill up entirely to your satisfaction the outline of your own ideas and intentions. I ask the favor therefore of such observations as may occur to you on the perusal of the drafts and of every suggestion of addition or omission which you may think advisable. I am, etc.

TO HUGH NELSON

WASHINGTON, 16 May, 1823.

DEAR SIR:

The uniform which has usually been worn by the Minister of the United States at royal courts in Europe is in no wise essential and has never been so considered.

By the established rules of all the monarchical European governments persons presented to the sovereign must appear in a *court dress*, and the uniform was adopted for the convenience of using the *same dress* on all such occasions and at any of the courts. But should you on your arrival in Spain find any difficulty in procuring immediately a coat of the uniform according to the sample, there is not a tailor at Madrid or wherever you may find the King of Spain but would furnish you at twelve hours' warning a court dress with which you will be admitted to the king's presence to deliver your credentials just as freely as if you were attired in the uniform. Should you find any inconvenience what-

ever in procuring an uniform, embroidered like the sample, there will be no sort of necessity for you even to trouble yourself about it. Any court dress will answer the purpose just as well, and at any other place except at court either the uniform or the court dress would be as strange and as ludicrous as a Turkish caftan or a Roman toga.

As to the gentlemen going to the South American republics I should hope the uniform or any other court dress will be as unnecessary, if not as useless, as they are here. Should it however be expected according to the usages of the country that they appear in gaudy *attire*, the tailors of the respective places will be the only diplomatists whom they will have occasion to consult for the appropriate garb, and all the enquiries they will need to make will be for a dress in which they can be received.

I am, etc.

TO CAESAR AUGUSTUS RODNEY [1]

DEPARTMENT OF STATE,
WASHINGTON, 17 May, 1823.

SIR:

The establishment of independent nations and governments in South America forms a remarkable era in the history of the world, and the formal interchange of diplomatic missions with them is a memorable event in that of our own country. The interest which you have taken in the progress

[1] "The sketch of instructions which I have received from you today for Mr. Rodney, I have carefully examined, and now return with my entire approbation. I think that it meets the object of marking an epoch in our relations with the new independent governments south of the United States in a manner worthy of our own. I have no alteration to make." *Monroe to John Quincy Adams*, May 11, 1823. Ms.

of the revolution which has released those extensive regions from their state of colonial dependence, and introduced them to their equal station among the nations of the earth, and the part you have already borne in the preceding public transactions between the United States and the Republic of Buenos Ayres, concurring with the confidence of the President in your long tried abilities, patriotism and integrity, have induced your appointment to the mission upon which you are about to depart.

The circumstances here alluded to supersede the necessity of reviewing the general course of policy hitherto pursued by the United States with regard to the struggle for South American independence. It has been fully known to you, and should an occasion arise during the continuance of your mission, in which it may be useful to the public service that our system of conduct towards South America should be unfolded, you will be amply competent to the task, without need of further special instructions from this Department.

The relations of the United States with Buenos Ayres, however, hitherto, so far as they have been sustained by agents of the respective governments have been informal and disconnected. The appointment of a public minister to reside at that place is the proper occasion for recurring to the *principles*, upon which the future and permanent relations between the two countries should be settled.

Those relations will be either political or commercial.

Of all the southern republics, Buenos Ayres has been the longest in possession of independence, incontested within its own territory by the arms of Spain. Its internal convulsions and revolutions have been many, and are yet far from being at their close. It has on one hand carried the war of independence into Chile and Peru; but on the other, by its vicinity to the Portuguese territory of Brazil, it has

lost the possession of Montevideo, and of the Banda Oriental, or eastern shore of La Plata. The first establishment of the Buenos Ayrean government was under the ambitious and aspiring title of "the Independent Provinces of South America." It was afterwards changed for that of the Independent Provinces of La Plata, which it is believed still to retain. But it is far from embracing within its acknowledged authority all the provinces situated on that river, and for the last two or three years, its effective government has been restricted to the single province of Buenos Ayres. It has undergone many changes of government; violent usurpations of authority, and forcible dispossessions from it; without having so far as we know, to this day settled down into any lawful establishment of power, by the only mode in which it could be effected, a constitution formed and sanctioned by the voice of the people.

Buenos Ayres, also, more than any other of the South American provinces, has been the theatre of foreign European intrigues. With Spain itself, in a negotiation for receiving a Spanish prince as their sovereign; with the court of Rio Janeiro, for Portuguese princes and princesses, and for cessions of territory as the price of acknowledged independence; and with France, for the acquisition of a *legitimate* monarch in the person of a prince of Lucca. A hankering after monarchy has infected the politics of all the successive governing authorities of Buenos Ayres, and being equally contrary to the true policy of this country, to the general feeling of all the native Americans, and to the liberal institutions congenial to the spirit of freedom, has produced its natural harvest of unappeasable dissensions, sanguinary civil wars, and loathsome executions, with their appropriate attendance of arbitrary imprisonments, a subdued and perverted press, and a total annihilation of all civil liberty

and personal security. The existing government of Buenos Ayres, by all the accounts received from Mr. Forbes, is less tainted with this corruption than most of their predecessors. Mr. Rivadavia, the minister of foreign relations and most effective member of the government, is represented as a republican in principle, of solid talents, stern integrity, and faithfully devoted to the cause of order as well as of liberty. It is with infinite difficulty, and in conflict with repeated conspiracies, that he has been able to maintain himself hitherto, and the hope may be entertained, that the principles of which he is the supporter will ultimately surmount all the obstacles with which they are contending, and that a constitution emanating from the people, and deliberately adopted by them, will lay the foundations of their happiness and prosperity on their only possible basis, the enjoyment of equal rights.

To promote this object, so far as friendly counsel may be acceptable to the government existing there, will be among the interesting objects of your mission. At this time and since October, 1820, the government, confined as is understood, to the single province of Buenos Ayres, is administered by a governor and captain general, named Martin Rodriguez; the legislative authority being exercised by a *Junta*, elected by popular suffrage, and a portion of which have been recently chosen. The relations between this province and the rest of those which heretofore formed the viceroyalty of La Plata, are altogether unsettled, and although repeated efforts have been made to assemble a Congress in which they should be represented, and by which a constitutional union might be definitively organized, they have hitherto proved ineffectual.

In the meantime a more extensive confederation has been projected under the auspices of the new government of the

Republic of Colombia. In the last despatch received from Mr. Forbes, dated the 27th of January last, he mentions the arrival and reception at Buenos Ayres of Mr. Joaquin *Mosquera* y Arboleda, senator of the republic of Colombia, and their minister plenipotentiary and extraordinary, upon a mission, the general object of which he informed Mr. Forbes was to engage the other independent governments of *Spanish* America, to unite with Colombia in a congress to be held at such point as might be agreed on, to settle a general system of *American policy* in relation to Europe, leaving to each section of country the perfect liberty of independent self-government. For this purpose he had already signed a treaty with Peru, of which he promised Mr. Forbes the perusal; but there were some doubts with regard to the character of his associations, and the personal influences to which he was accessible at Buenos Ayres, and Mr. Forbes had not much expectation of his success in prevailing on that government to enter into his project of extensive federation.

By letters of a previous date, November, 1822, received from Mr. Prevost, it appears that the project is yet more extensive than Mr. Mosquera had made known to Mr. Forbes. It embraces North as well as South America, and a formal proposal to join and take the lead in it is to be made to the government of the United States.

Intimations of the same design have been given to Mr. Todd, at Bogota. It will be time for this government to deliberate concerning it, when it shall be presented in a more definite and specific form. At present it indicates more distinctly a purpose on the part of the Colombian Republic to assume a leading character in this hemisphere, than any practicable object of utility which can be discerned by us. With relation to *Europe*, there is perceived to be only one object, in which the interests and wishes of the United States

can be the same as those of the South American nations, and that is that they should all be governed by republican institutions, politically and commercially independent of Europe. To any confederation of Spanish American provinces for that end, the United States would yield their approbation and cordial good wishes. If more should be asked of them, the proposition will be received and considered in a friendly spirit, and with a due sense of its importance.

The treaty with Peru is not likely to be attended with much immediate effect. The state of Peru itself has hitherto been that rather of declared, than of established independence. The temporary government, assumed and administeréd by General San Martin, has been succeeded by his retirement, and by a signal defeat of the patriotic forces, which may probably restore all Peru to the Spanish royalists. Mr. Forbes attributes the retreat of San Martin and the state of Peru, after that event and preceding this last disaster, to misunderstandings between San Martin and the President of the Colombian Republic, Bolivar. This is highly probable; at all events it is certain that the combined project of liberating Peru by the concerted forces of Buenos Ayres, Chile and Colombia, has entirely failed; and there is every probability that henceforth the independence of Peru must be regained by the internal energies of its people, or reachieved by the military forces of the Colombian Republic only.

So far as objects of policy can be distinctly perceived at this distance, with the information which we possess, and upon a subject so complicated in itself, so confused by the incidents with which it is surrounded, and so comprehensive in its extent, the political interest of Buenos Ayres rather points to the settlement of its concerns altogether internal, or in its immediate neighborhood, than to a confederation

embracing the whole American hemisphere. It is now little more than the government of a single city, with a population less than half, perhaps less than one-third, that of New York. To form a solid union with the provinces, with which it was heretofore connected in the Viceroyalty; to put down the remnant of ecclesiastical domination; to curb the arbitrary dispositions of military power; to establish a truly representative government, personal security, and the freedom of the press, are purposes which the present administration appears to have sincerely at heart, and in the pursuit of which they may without undue interference in their internal concerns be exhorted to active and inflexible perseverance.

They will doubtless always understand, that to them independence of Europe does not merely import independence of Spain, nor political independence alone. The principles of the government now in power appear in this respect to be sound, although from some late communications of Mr. Forbes, it might be surmised that the dispositions of the Minister of Government and of Foreign Affairs himself are not entirely free from European partialities. The occupation of Montevideo and of the Banda Oriental by the Portuguese has perhaps been one of the principal causes of the distractions which have marked the revolutionary movements of Buenos Ayres. While that occupation continues, the interests and commerce of all the countries watered by the rivers Uruguay, Parana, and Paraguay, must be controlled by the power holding that first and principal port of the Plate River, Montevideo. The power of Portugal itself has now ceased in Brazil, and an empire, probably as ephemeral as that of Mexico at our doors, has taken its place. Before this last revolution had been completed, the Portuguese government of Brazil had acknowledged the independ-

ence of Buenos Ayres; but that acknowledgment was dearly purchased if paid for by the cession of the Banda Oriental. As yet the possession of Montevideo has been *military;* by troops chiefly, if not all, European Portuguese, under the command of General Lecor, Baron of Lacuna. These troops have followed the revolutionary movement, not of Brazil, but of Portugal. The command of their general over them has been for some time little more than nominal, and as they neither recognize the Brazilian empire, nor are able to maintain themselves by resources from Europe, they must soon evacuate the country and return to Lisbon. From the time of their departure, Mr. Forbes appears to expect that the inhabitants of the Oriental Band themselves will prefer their old and natural connection with Buenos Ayres, to a forced union with the empire of Brazil. It will certainly be the favorable moment for Buenos Ayres to recover the eastern shore of the river, and with it the means of recruiting under one free and republican government the scattered fragments of the old Viceroyalty of La Plata.

There will then be much less of incentive for a Buenos Ayrean government to the contamination of dark intrigues with Portuguese Princesses, or to the degrading purchase of a Prince of Lucca to rule over them as a King. The independence of an American nation can never be completely secured from European sway, while it tampers for authority with the families of European sovereigns. It is impossible that *any* great American interests should be served by importing a petty Prince from Europe to make him a king in America. The absurdity of all such negotiations is so glaring, that nothing but the notorious fact that they have pervaded the whole history of Buenos Ayres from the first assertion of its independence could excuse this reference to them. The special right that we have to object to them is, that they are

always connected with systems of subserviency to *European* interests — to projects of political and commercial *preferences* to that European nation from whose stock of royalty the precious scion is to be engrafted. The government of Pueyrredon was deeply implicated in these negotiations; and the consequence was, that in the project of a treaty drawn up and signed by his authority with Mr. Worthington, he refused to insert an article stipulating for the United States commercial advantages on equal footing with the most favored nation. Dr. Taglé, afterwards endeavoring to explain this incident to Mr. Prevost, professed that the object had been to grant special favors to the power *which should first acknowledge their independence* — as if the surrender of the thing was an equivalent for the acquisition of the name; and as if by ratifying that very treaty the United States would not have been the first to acknowledge the independence of the government with which it was formed.

It is hoped that you will find little of this spirit remaining to contend with. The head of the government is yet a military officer; but the principles always avowed by Mr. Rivadavia, the minister and effective member of government, are emphatically American. A government by popular representation and periodical election, the subordination of the military to the civil authority, the suppression of ecclesiastical supremacy, the freedom of the press, and the security of personal liberty, appear to be duly appreciated by him, as the only foundations of a social compact suited to the wants of his country; and with these fundamental principles, no preference for European connections; much less predilections for European princes, can be entertained.

The foundation of our municipal institutions is equal rights. The basis of all our intercourse with foreign powers is *reciprocity*. We have not demanded, nor would we have

accepted special privileges of any kind in return for an acknowledgment of independence. But that which we have not desired, and would not have accepted for ourselves, we have a right to insist ought not to be granted to others. Recognition is in its nature not a subject of equivalent; it is claimable of right, or not at all. You will, therefore, strenuously maintain the right of the United States to be treated in every respect on the footing of the most favored, or as it is more properly expressed, the most friendly nation — *gentis amicissimae* — and should you negotiate a treaty of commerce, you will make that principle the foundation of all its provisions.

The materials of interest, leading to the negotiation of such a treaty between the United States and Buenos Ayres, are indeed so slender, that there is no motive for desiring it on our part; nor is it the intention of the President that you should propose it. Our commercial intercourse itself with Buenos Ayres cannot for ages, if ever, be very considerable; and while Montevideo remains under the authority of another government, must be altogether trifling. The productions of the two countries are so essentially the same, that in ordinary times of peace and tranquillity their commercial relations must be rather of competition than of mutual exchange. The trade hitherto subsisting since it was first opened in 1815, after the close of our late war with Great Britain, has been chiefly dependent on the unsettled and disturbed condition of the country itself, and would in a great measure cease with the convulsions of the revolution. The imports to the United States from Buenos Ayres are confined to a small number of animal productions — hides, skins, tallow, and furs. The exports have been of arms, ships, warlike and naval stores, hats, boots, shoes, saddlery, furniture, chairs, carriages, wooden ware, morocco skins,

woollen and cotton goods, lumber, flour, fish and salted provisions. For almost all these articles we have been in disadvantageous competition with the British, and for many of them the necessity of supply at Buenos Ayres will terminate whenever that country shall be at peace. But whatever the state of trade between the two nations may be, it will regulate itself most advantageously for both, without needing a treaty, by the simple adherence to the principle of equal rights and favors, or in other words of treating each other on the footing of the *most friendly nation.* From the physical and geographical constitution of the country, even if the whole viceroyalty of La Plata should ultimately be reunited under one government, it can never form, to any considerable extent, a *navigating* nation. It produces few of the materials essential for ship-building, and has neither a line of coast, studded with seaports and channeled with navigable rivers directly opening upon the sea, nor ocean fisheries in its bordering seas, from which nurseries of seamen can be formed. It is an immense inland region, communicating with the Atlantic only by one mighty river, with innumerable tributary streams. Possessed of inexhaustible resources within itself, such a country is neither allured by the temptations nor urged by the necessities, which, compensating for the privation of a fruitful soil and stimulating to the exertion of hardihood and defiance of danger incident to the sea-faring life, give national importance to the occupation of the mariner, and present his interests and his rights as among the primary objects of social encouragement and protection.

It may hereafter constitute a large portion of our commercial intercourse with that country to furnish ships for the carriage of their trade, both of export and import; and although they may and doubtless will be to a certain extent

navigators themselves, yet finding in foreigners cheaper, more expeditious and safer *carriers* than they can ever raise, they will have every rational inducement for giving them the preference, and they will best promote their own interests by employing the seamen as well as the ships of other nations for the conveyance of their foreign commerce. For this *carrying* trade the United States possess advantages beyond all other maritime nations; but in times of general peace in Europe, they will have eager competitors, always in the British, and sometimes in the French. The great object to be guarded against in our relations with Buenos Ayres will be the attempts which may be anticipated by either or both of these rivals, to secure advantages of preference to themselves, and burdensome to us, in the internal regulations of the country. You will be always mindful of this danger, and use every action necessary and proper for defending the interest of our country against it.

Heretofore, while the government of Buenos Ayres authorized and encouraged a system of privateering, as one of their means of warfare against Spain, among the many complaints which in its consequences it gave us too much reason to make, was that of the seduction of the seamen from our merchant vessels frequenting the port, to man the privateers, fitting out under the Buenos Ayrean flag. This mischief was much aggravated by two articles in their privateering ordinance, substantially violating the laws of nations, and opening the door to the most outrageous abuses. Mr. Forbes was instructed to remonstrate against them; and among the earliest and wisest acts of the present administration, after the appointment of Mr. Rivadavia, was the revocation of all the privateering commissions. The right to renew them was reserved, but has not been exercised. Should it be so during your residence there, you will renew

the remonstrance, particularly against those two articles — the third and eighth of the privateering ordinance of 15 May, 1817; by the first of which *foreigners*, never having even been in the country, may be captains and officers of the privateers; while by the other, they have a discretionary power to send their prizes where they please. These two articles are little less than licences of piracy. They trespassed upon the rights of other nations, and held out the worst of temptations to their seamen. It is sincerely hoped they will never be revived.

The present administration have in other respects manifested a disposition to protect our merchant vessels in their ports from the desertion of their seamen, and, at the representation of Mr. Forbes, issued on the 14th of March, 1822, an ordinance of maritime police, entirely satisfactory. Since that time it is not known that the masters of any of our vessels there have had occasion to complain of the loss of their seamen by desertion; and the principle having been thus established, it may be hoped there will be no excuse for complaint hereafter. Your attention to the maritime ordinance is invited, only as it may point you to the remedy already provided, should there be a necessity of resorting to it.

But although we perceive no necessity and have no desire for the negotiation of a treaty of commerce, you are nevertheless furnished with a full power for that purpose, if it should be desired by the government at Buenos Ayres. It was in compliance with such a desire at the time of the administration of Pueyrredon, that Mr. Worthington, without authority from this government, did conclude with an agent appointed by that Supreme Director, an eventual treaty, which was of course not ratified here. Had that treaty been negotiated even with competent powers, it would have been

a sufficient reason for withholding the ratification of it, that it did not contain the only article and only principle upon which we should deem it useful to conclude a treaty with any of the new independent states, the principle above alluded to, of mutual treatment upon a footing of equality with the most favored nation. This principle was adopted upon full deliberation, as the great foundation of our foreign policy, at the time of our declaration of independence, and forms an essential part of the political system upon which it was established. It was fully disclosed in our first treaty of 6 February, 1778, with France, the preamble to which should be the political manual for every negotiator of the United States, in every quarter of the globe. The first four articles of that same treaty contain the practical exposition of the principle recognized in the preamble, and, in case you should be invited to negotiate, will furnish a model for articles of similar import to be inserted in the treaty. The convention of 3 July, 1815, with Great Britain extends yet farther the grant of reciprocal favor, by admitting the commerce and shipping of each party within the ports of the other; in many respects upon the same footing with its own. This rule, with some modification, was offered by the act of Congress of 3 March, 1815, to all foreign nations willing to secure to our commerce and navigation the same advantages within their ports. The offer has been accepted by the Netherlands, Prussia, the Hanseatic cities, and the Duke of Oldenburg. The government of Norway has gone one step farther, and admits our vessels into its ports, and their cargoes, whencesoever coming and of whatsoever origin, upon the same footing of duties, imposts and charges, as their own. They have claimed for Norwegian vessels and cargoes the same advantages within our ports, and the only motive for hesitating with regard to the acceptance of

this proposal is, that in yielding it to Norway we might become entangled in our engagements with other powers, and that in this unqualified extent it could only be compatible with the general principle of reciprocity, by obtaining the assent of all the powers with which we are in relations of active commercial intercourse. We have now treaties with France, Great Britain, Spain and Sweden, each containing stipulations different from those of all the rest in relation to the payment of imposts, duties and charges upon shipping and trade. In the negotiation of any future treaty, it will be necessary to provide that nothing in it shall be understood or construed to impair any of our existing engagements with other nations; but with the exception of certain privileges secured until the 28th of May, 1833, to Spanish vessels and their cargoes in the ports of St. Augustine and Pensacola, by the fifteenth article of the late treaty with Spain, there is no stipulation in any of our treaties of favor or advantage to any nation, which we are restrained from conceding to any other, upon condition of being entitled to the same in return.

The usual subjects of treaties of commerce are: 1. Stipulations of general peace between the contracting parties, their subjects and citizens. 2. Privileges or exemptions in favor of the subjects or citizens of either party, visiting or residing, or dying within the jurisdiction of the other. 3. Payment of duties of tonnage and impost, and charges upon trading vessels and cargoes. 4. Regulations of conflicting belligerent and neutral pretensions and rights in time of war. 5. Regulations contingent on the event of war between the parties.. 6. Stipulations concerning the admission, treatment and authority of consuls. 7. Concerning seamen. Upon all or any of these subjects, should the negotiation of a treaty be proposed to you, the existing

treaties of the United States, containing their engagements with other nations relating to the same, may be safely adopted, or modified, as the circumstances may render proper, of which your own discretion will better determine, than could now be prescribed to you. The general principle of reciprocity and equal favor to all nations being assumed as the basis of negotiation, the special stipulations, all adapted to that standard, may be varied according to the circumstances peculiar to the intercourse between the two countries, which will be better known to you than they can be to us. You will naturally see the uselessness of introducing, as has often been done in treaties of commerce, articles already in force by the laws or internal regulations of both parties, and articles which by the acknowledged and undisputed laws of nations would be in force between the parties, without any treaty stipulation at all. A resolution of the House of Representatives at the late session of Congress requests the President of the United States to enter upon, and to prosecute from time to time, such negotiations with the several maritime powers of Europe and America as he may deem expedient for the effectual abolition of the African slave trade; and its ultimate denunciation as *piracy* under the laws of nations, by the consent of the civilized world.

In pursuance of the object proposed by this resolution, you will communicate to the government of Buenos Ayres copies of the several acts of Congress for the suppression of the slave trade, of the 20th of April, 1818 (U. S. Laws, Vol. 6, p. 325), 3 March, 1819 (p. 435), and of 15 May, 1820 (p. 529), pointing their attention particularly to the fourth and fifth sections of the last, which subject to the penalties of piracy every citizen of the United States guilty of active participation in the African slave trade. The adoption of this principle in the legislative code of all the maritime nations,

would of itself probably suffice for the suppression of the trade. But as it would yet not authorize the armed vessels of any one nation to capture those of another engaged in the trade, a stipulation to that effect might be agreed to by treaty, conditioned that the captor shall deliver over the captured party to the tribunals of his own country for trial; to which should be added some guard of responsibility upon the capturing officer, to prevent the abusive exercise of his power.

You will consider all these instructions rather as advisory than as of positive injunction. Our intercourse with Buenos Ayres, as with all the other new nations of this hemisphere, is of recent origin; formed while their own condition has been altogether revolutionary, and continually changing its aspect. Our information concerning them is imperfect, and among the most important objects of your mission will be that of adding to its stores; of exploring the untrodden ground, and of collecting and transmitting to us the knowledge by which the friendly relations between the two countries may be extended and harmonized, to promote the welfare of both, with due regard to the peace and good-will of the whole family of civilized man. It is highly important that the first foundations of the permanent future intercourse between the two countries should be laid in principles, benevolent and liberal in themselves, congenial to the spirit of our institutions, and consistent with the duties of universal philanthropy.

In all your consultations with the government to which you will be accredited, bearing upon its political relations with this Union, your unvarying standard will be the spirit of independence and of freedom, as *equality* of rights and favors will be that of all its commercial relations. Your own attachment to those principles, conspicuous in the

whole tenor of your political life, formed one of the principal motives for inviting you to the acceptance of the trust reposed in you by this mission, and sustains the reliance of the President that its duties will be discharged to the signal advantage and general satisfaction of our country. I am, etc.

TO RICHARD C. ANDERSON

Department of State,
Washington, 27 May, 1823.

Sir,

The revolution which has severed the colonies of Spanish America from European thraldom, and left them to form self-dependent governments as members of the society of civilized nations, is among the most important events in modern history. As a general movement in human affairs, it is, perhaps, no more than a development of principles first brought into action by the separation of these states from Great Britain, and by the practical illustration given in the formation and establishment of our Union to the doctrine that voluntary agreement is the only legitimate source of authority among men, and that all just government is a compact.

[Of all the violations of this theory, with which the annals of our species abound, the colonial system of Spain was perhaps the most iniquitous and absurd. Resting for the right upon the most degraded superstition; pursuing for its means brutal force alone, Spain had taken a grant of half the world from the Bishop of Rome, to teach to its inhabitants the most benevolent of all religions. And after ravaging under these pretences those extensive regions with fire and

sword; after subduing their people by force and treachery, and extirpating them by millions, had taken possession of nearly the whole continent of South America, and of a great portion of the north, and locking them up from all other human intercourse but with herself, claimed, and for three hundred years maintained, exclusive property of the inhabitants and of the soil, excluding all foreigners from setting foot on their shores upon the penalty of death.

But if the delusions of the human mind are unbounded in extent, they are limited in duration. It was impossible that such a system should stand before the progressive improvement of the understanding in this age, or that the light shed upon the whole earth by the results of our revolution should leave in utter darkness the regions immediately adjoining upon ourselves.][1]

The independence of the Spanish colonies, however, has proceeded from other causes, and has been achieved upon principles, in many respects different from ours. In our revolution the principle of the social compact was, from the beginning, in immediate issue. It originated in a question of *right* between the government in Europe and the subject in America. Our *independence* was declared in defence of our *liberties*, and the attempt to make the yoke a yoke of oppression was the cause and justification for casting it off.

[The revolution of the Spanish colonies was not caused by the oppression under which they had been held, however great it had been. Accustomed to the combined weight of military and ecclesiastical despotism, secluded from all

[1] What is enclosed in brackets was struck out and the following substituted: "It was impossible that such a system as Spain had established over her colonies should stand before the progressive improvement of the understanding in this age, or that the light shed upon the whole earth by the results of our revolution should leave in utter darkness the regions immediately adjoining upon ourselves."

intercourse with the rest of the world, subdued in mind and body, with a people heterogeneously composed of European adventurers, of creole natives of the country but of Spanish descent, of aboriginal Indians, and of African slaves, all under the actual government of the small number of Spaniards composing the first class, there was no spirit of freedom pervading any portion of this population, no common principle of reason to form an union of mind; no means of combining force for exertions of resistance to power.] [1]

The independence of the Spanish colonies was first forced upon them by the temporary subjugation of Spain herself to a foreign power. They were by that event cast upon themselves and compelled to establish governments of their own. Spain through all the vicissitudes of her own revolution has clung to the desperate hope of retaining, or of reclaiming them to her own control; and has waged, to the extent of her power, a disastrous and savage war to that intent. In the mind of every rational man it has been for years apparent that Spain can never succeed to recover her domination where it has been abjured, nor is it probable that she can long retain the small remnant of her authority yet acknowledged in some spots of the South American continent, and in the islands of Cuba and Porto Rico.

The political course of the United States from the first dawning of South American independence has been such as was prescribed by their relative duties to all the parties. Being on terms of peace and amity with Spain through all the changes of her own government, they have considered the struggles of the colonies for independence as a case of civil war, to which their national obligations prescribed to them to remain neutral. Their policy, their interest and their feelings, all concurred to favor the cause of the colonies; and

[1] This paragraph was struck out.

the principles upon which the right of independence has been maintained by the South American patriots have been approved, not only as identical with those upon which our own independence was asserted and achieved, but as involving the whole theory of government on the emphatically American foundation of the sovereignty of the people, and the unalienable rights of man. To a cause reposing upon this basis, the people of this country never could be indifferent, and their sympathies have accordingly been with great unanimity and constancy enlisted in its favor. The sentiments of the government of the United States have been in perfect harmony with those of their people; and which forbearing, as their duties of neutrality prescribed, from every measure which could justly be construed as hostile to Spain, they have exercised all the moral influence which they possessed to countenance and promote the cause of independence.

So long as a contest of arms, with a rational or even remote prospect of eventual success, was maintained by Spain, the United States could not recognize the independence of the colonies as existing *de facto*, without trespassing on their duties to Spain, by assuming as decided that which was precisely the question of the war. In the history of South American independence there are two periods clearly distinguishable from each other: the first, that of its origin when it was rather a war of independence against France than against Spain; and the second, from the restoration of Ferdinand VII in 1814. Since that period, the territories now constituting the republic of Colombia have been the only theatre upon which Spain has been able to maintain the conflict offensively with even a probable color of ultimate success. But when in 1815 she made her greatest effort in the expedition from Cadiz commanded by Morillo, Mexico,

Peru, and Chile were yet under her authority; and had she succeeded in reducing the coast of Terra Firma and New Granada, the provinces of La Plata, divided among themselves and weakened by the Portuguese occupation of Montevideo, would probably not have held out against her long. This, at least, was the calculation of her policy, and from the geographical position of these countries, which may be termed the heart of South America, the conclusion might well be drawn that if the other power of Spain could not be firmly reseated there, it must be on her part a fruitless struggle to maintain her supremacy in any part of the American continents.

The expedition of Morillo on its first arrival was attended with signal success. Carthagena was taken. The whole coast of Terra Firma was occupied, and New Grenada was entirely subdued. A remnant of patriots in Venezuela, with their leader Bolivar, returning from expulsion, revived the cause of independence, and after the campaign of 1819, in which they reconquered the whole of New Grenada, the demonstration became complete, that every effort of Spain to recover the South American continent must thenceforward be a desperate waste of her own resources, and that the truest friendship of other nations to her would consist in making her sensible that her own interest would be best consulted by the acknowledgment of that independence which she could no longer effectually dispute.

To this conclusion the government of the United States had at an earlier period arrived. From the commencement of the present administration [1] the President has considered the question of recognition, both in a moral and political view, as merely a question of the proper *time*. While Spain could entertain a reasonable hope of maintaining the war

[1] Altered to "from that emergency."

and of recovering her authority, the acknowledgment of the colonies as independent states would have been a wrong to her; but she had no right upon the strength of this principle to maintain the pretension, after she was manifestly disabled from maintaining the contest, and by unreasonably withholding her acknowledgment, to deprive the independents of their right to demand the acknowledgment of others. To fix upon the precise *time* when the duty to respect the prior sovereign right of Spain should cease, and that of yielding to the claim of acknowledgment would commence, was a subject of great delicacy, and, to the President, of constant and anxious solicitude. It naturally became in the first instance a proper subject of consultation with other powers having relations of interest to themselves with the newly opened countries, as well as influence in the general affairs of Europe. [At the very commencement of this administration, informal and indistinct intimations had been received from France, that although *she* could not take the lead in the acknowledgment of independence of the Spanish colonies, she should not take offence, if it should be acknowledged by the United States. The sentiments of the British and of the Russian cabinets were also sounded and ascertained, and] [1] in August, 1818,[2] a formal proposal was made to the British government, for a concerted and cotemporary recognition of the independence of Buenos Ayres, then the only one of the South American states which, having declared independence, had no *Spanish* force contending against it, within its borders, and where it therefore most unequivocally existed *in fact.*

The British government declined accepting the proposal themselves, without however expressing any disapprobation

[1] Sentences in brackets were struck out.

[2] Vol. VI. 433, *supra.*

of it; without discussing it as a question of principle, and without assigning any reason for the refusal, other than that it did not then suit with their policy. They also gave immediate notice of it to Spain, and it became a subject of consideration at the deliberations of the Congress of Aix-la-Chapelle in October, 1818. There is reason to believe that it disconcerted projects which were there entertained of engaging the European alliance in active operations against the South Americans, as it is well known that a plan for their joint *mediation* between Spain and her colonies, for restoring them to her authority, was actually matured and finally failed at that place only by the refusal of Great Britain to accede to the condition of employing *force* eventually against the South Americans for its accomplishment. Some dissatisfaction was manifested by several members of the Congress at Aix-la-Chapelle at this avowal on the part of the United States of their readiness to recognize the independence of Buenos Ayres. [It is understood to have been particularly displeasing to the cabinet of France, notwithstanding the intimation which they had nearly two years before given here. The cause of this change in her policy has since been disclosed in the fact, that, at the very time of the Congress at Aix-la-Chapelle, while sharing in the counsels of the allies at that place for restoring South America to the Spanish dominion by force, she was actively engaged at Paris in a separate negotiation with agents of Buenos Ayres and Chile, for selling her own acknowledgment of their independence, on condition of their receiving from her a monarch in the person of the Prince of Lucca.] [1]

The reconquest in the campaign of 1819 of New Grenada to the patriot cause was immediately followed by the formation of the Republic of Colombia, consisting of three great

[1] Sentences in brackets were struck out.

divisions of the preceding Spanish government, Venezuela, Cundinamarca, and Quito. It was soon succeeded by the dissolution of the Spanish authority in Mexico; by the revolution in Spain itself; and by the military operations which resulted in the declaration of independence in Peru. In November, 1820, was concluded the armistice between the Generals Morillo and Bolivar, together with a subsequent treaty, stipulating that in case of the renewal of the war, the parties would abstain from all hostilities and practices not consistent with the modern law of nations and the humane maxims of civilization. In February, 1821, the partial independence of Mexico was proclaimed at Yguala; and in August of the same year was recognized by the Spanish Viceroy and Captain General, O'Donoju, at Cordova.

The formation of the Republic of Colombia by the fundamental law of 17 December, 1819, was notified to this government by its agent, the late Don Manuel Torres, on the 20th of February, 1821, with a request that it might be recognized by the government of the United States, and a proposal for the negotiation of treaties of commerce and navigation *founded upon the bases of reciprocal utility and perfect equality*, as the most efficacious means of strengthening and increasing the relations of amity between the two republics.

The request and proposal were renewed in a letter from Mr. Torres of the 30th of November, 1821, and again repeated on the 2d of January, 1822. In the interval since the first demand, the general Congress of the new republic had assembled and formed a constitution, founded upon the principles of popular representation, and divided into legislative, executive, and judicial authorities. The government under this constitution had been organized, and was in full operation; while during the same period, the principal remnants of the Spanish force had been destroyed by the

battle of Carabobo, and its last fragments were confined to the two places of Porto Cavello and Panama.

Under these circumstances a resolution of the House of Representatives of the United States, on the 30th of January, 1822, requested of the President to lay before the House the communications from the agents of the United States with the governments south of the United States which had declared their independence; and those from the agents of such governments here with the Secretary of State, tending to show the political condition of their governments, and the state of the war between them and Spain. In transmitting to the House the papers called for by this resolution, the President by his message of 8 March, 1822, declared his own persuasion that the time had arrived when in strict conformity to the law of nations, and in the fulfilment of the duties of equal and impartial justice to all parties, the acknowledgment of the independence declared by the Spanish American colonies could no longer be withheld. Both houses of Congress having almost unanimously concurred with these views of the President, an appropriation was made by law (4 May, 1822), for such missions to the independent nations on the American continent as the President should deem proper.

On the day after the President's message of the 8th of March, the Spanish minister, Anduaga, addressed to this Department a remonstrance against the measure which it recommended, and a solemn protest against the recognition of the governments mentioned of the insurgent Spanish provinces of America. He was answered on the 6th of April, by a letter recapitulating the circumstances under which the government of the United States had "yielded to an obligation of duty of the highest order, by recognizing as independent States nations which, after deliberately assert-

ing their right to that character, had maintained and established it against all the resistance which had been or could be brought to oppose it." On the 24th of April he gave information, that the Spanish government had disavowed the treaty of 24 August, 1821, between the Captain General O'Donoju and Colonel Iturbide, and had denied the authority of the former to conclude it.

On the 12th of February, 1822, the Spanish extraordinary Cortes adopted the report of a committee, proposing the appointment of commissioners to proceed to South America, to negotiate with the revolutionary patriots concerning the relations to be established thereafter in regard to their connection with Spain. They declared at the same time all treaties made with them before that time by Spanish commanders implying any acknowledgment of their independence, null and void, as not having been authorized by the Cortes; and on the next day they passed three resolutions: the first annulling expressly the treaty between O'Donoju and Iturbide. The second, "That the Spanish government, by a declaration to all others with which it has friendly relations, make known to them, that the Spanish nation will regard, *at any epoch*, as a violation of the treaties, the recognition, either partial or absolute, of the independence of the Spanish provinces of Ultramar, so long as the dissensions which exist between some of them and the metropolis *are not terminated*, with whatever else may serve to convince foreign governments that Spain has not yet renounced any of the rights belonging to it in those countries."

The third resolution recommended to the government to take all necessary measures and to apply to the Cortes for the needed resources to preserve and recover the authority of Spain in the ultramarine provinces.

These measures of the Cortes were not known to the

President of the United States when he sent to Congress his message of the 8th of March; but information of them was received while the bill making an appropriation for the missions was before Congress, and on the 25th of April a resolution of the Senate requested of the President any information he might have proper to be disclosed from our minister at Madrid, or from the Spanish minister resident in this country, concerning the views of Spain relative to the recognition of the independence of the South American colonies, and of the dictamen of the Spanish Cortes. In answer to this resolution the letter from Mr. Anduaga, protesting against the recognition, and one from Mr. Forsyth, enclosing a translation of the dictamen, were transmitted to the Senate, which, with all these documents before them, gave their concurrent sanction, with that of the House of Representatives, to the passage of the bill of appropriation.

This review of the proceedings of the government of the United States, in relation to the independence of Spanish America, has been taken, to show the consistency of the principles by which they were uniformly dictated, and that they have been always eminently friendly to the new republics, and disinterested. While Spain maintained a doubtful contest with arms to recover her dominion, it was regarded as a civil war. When that contest became so manifestly desperate, that Spanish viceroys, governors and captain generals themselves concluded treaties with the insurgents, virtually acknowledging their independence, the United States frankly and unreservedly recognized the fact, without making their acknowledgment the price of any favor to themselves, and although at the hazard of incurring the displeasure of Spain. In this measure they have taken the lead of the whole civilized world; for although the Portuguese Brazilian government had a few months before recognized

the revolutionary government of Buenos Ayres, it was at a moment when a projected declaration of its own independence made the question substantially their own cause, and it was presented as an equivalent for a reciprocal recognition of their own much more questionable right to the eastern shore of La Plata.

On the [19] of June, 1822, Mr. Manuel Torres was received by the President of the United States as the chargé d'affaires from the Republic of Colombia, and the immediate consequence of our recognition was the admission of the vessels of the South American nations, under their own colors, into the ports of the principal nations of Europe [— a half way step towards the acknowledgment, soon to be succeeded by the direct avowal, which on the part of Europe will be as reluctant and ungracious, as on that of the United States it was open and cordial.

The policy of all the European nations towards South America has been founded upon selfish principles of interest, incongruously combined with erroneous principles of government. Since the restoration of the Bourbons,] [1] the European alliance of emperors and kings have assumed as the foundation of human society the doctrine of unalienable *allegiance*. Our doctrine is founded upon the principle of unalienable *right*. The European allies, therefore, have viewed the *cause* of the South Americans as rebellion against their lawful sovereign. We have considered it as the assertion of natural right. *They* have invariably shown their disapprobation of the revolution, and their wishes for the restoration of the Spanish power. We have as constantly favored the standard of independence and of America. [As the necessity of eventual recognition has advanced upon *them*, they have tampered with internal parties, to turn to

[1] Sentences in brackets were struck out.

their own account the issue which they could not control; British agents have been feeling their way for exclusive privileges of commerce; Portugal has been chaffering for a fragment of territory; and France has been darkly plotting a monarchy for the Prince of Lucca, which she seems to have considered as a sort of compromise between political legitimacy and bastardy, to be purified by crossing a breed of the Bourbon and Braganza blood. It is difficult to treat such projects with the gravity suitable to the subject; but in tracing the conduct of nations to their sources, selfish and sordid motives will stamp their images upon the purposes by which they are pursued in characters as indelible as those which indicate their derivation from the pure origin of freedom, equal rights, and disinterested generosity.] [1]

In contrasting the principles and the motives of the European powers, as manifested in their policy towards South America, with those of the United States, it has not been my intention to boast of our superior purity, or to lay a claim of merit to any extraordinary favor from South America in return. Disinterestedness must be its own reward; but in the establishment of our future political and commercial intercourse with the new republics it will be necessary to recur often to the principles in which it originated; they will serve to mark the boundaries of the rights which we may justly claim in our future relations with them, and to counteract the efforts which, it cannot be doubted, European negotiators will continue to make in the furtherance of their monarchical and monopolizing contemplations.

[The Republic of Colombia is, of all the nations which have arisen from the ruins of the Spanish power in America, that which has had the most arduous and agonizing struggle to maintain against the metropolis of its birth; that which by

[1] Sentences in brackets were struck out.

its geographical position and physical constitution presents the fairest prospective promise of a great and formidable power; that which amidst the convulsions of the revolutionary tempest has assumed the most encouraging appearance of consistency and stability; and that in which the principles of civil liberty have apparently made the most successful progress towards a final triumph over the prejudices of inveterate ignorance, despotism, and superstition.] [1]

Upon a territory by one-half more extensive than the whole inhabited part of the United States, with a population of less than four millions of souls, they have indeed undertaken to establish a single, and not a confederated republic. Whether this attempt will be found practicable in execution, may be susceptible to doubt; but in the new organizations of society upon this hemisphere, even unsuccessful experiments lead to results by which the science of government is advanced and the happiness of man is promoted. The Republic of Colombia has a constitution deliberately formed and adopted upon principles entirely republican, with an elective legislature in two branches, a distribution of the powers of government, with the exception of the federative character, almost identical with our own, and articles declaratory of the natural rights of the citizen to personal security, property and reputation, and of the inviolable liberty of the press. With such a constitution, in such a country, the modifications which experience may prove to be necessary for rendering the political institutions most effectually competent to the ends of civil government, will make their own way by peaceable and gradual conquests of public opinion. If a single government should be found inadequate to secure and protect the rights of the people living under it, a federation of republics may without diffi-

[1] This paragraph was struck out.

culty be substituted in its place. Practical effect having once been given to the principle that lawful government is a compact and not a grant, the pretences for resorting to force for effecting political revolutions disappear. The subordination of the military to the civil power is the only principle yet remaining to be established in Colombia, to ensure the liberties of the future generations as well as those of the present age; and that subordination although not directly guaranteed by their present constitution, is altogether conformable to its spirit.

In the letter of 20 February, 1821, from the late Mr. Torres, demanding the recognition of the Republic of Colombia, it has been observed that the additional proposal was made of negotiating "*treaties of navigation and commerce*, founded upon the bases of reciprocal utility and perfect equality, as the most efficacious means of strengthening and increasing the relations of amity between the two republics."

In compliance with this proposal, among the documents furnished you for proceeding upon the mission to which you have been appointed, of minister plenipotentiary to the Republic of Colombia, is a full power which will authorize you to negotiate with any plenipotentiary or plenipotentiaries of that government duly provided with like powers, such a treaty. The President wishes, however, that every step in such negotiation should be taken with full deliberation. The treaty, if concluded, must, as you are aware, be reserved subject to ratification here, with the advice and consent of the Senate by the constitutional two-thirds; as by the constitution of Colombia (Art. 120) their treaties to be valid must receive the consent and approbation of their Congress.

Our commercial relations with the Colombian territory are of so recent origin, and have depended so much upon the

revolutionary condition of that country, under which they have arisen, that our knowledge of their state and character is very imperfect, although we are certain that they are altogether different from those which may be expected to arise from permanent interests, when the independence of the republic shall be universally recognized, and a free trade shall be opened to its inhabitants with all parts of the world. The only important point now to be settled, as the radical principle of all our future commercial intercourse, is the basis proposed by Mr. Torres of *reciprocal utility and perfect equality;* as the necessary consequence of which you will claim that, without waiting for the conclusion of a treaty, the commerce and navigation of the United States in the ports of the Colombian Republic should be received on the footing of equality with the most favored nation. It is hoped, indeed, that on your arrival at the place of your destination you will find the principle already settled; assurances to that effect having been given by the Minister of Foreign Relations to Mr. Todd.

By an act of the Congress of Colombia of the 25th of September, 1821, an impost duty of seven and one-half per cent was laid upon all articles imported from any part of America, *additional* to the duty upon the like articles imported from Europe. This discrimination was mentioned to Mr. Torres at the time of his reception. He thought it had arisen only from an inadvertency, and promised to write concerning it to his government. Mr. Todd was instructed to remonstrate against it, which he accordingly did. From his correspondence and conferences relating to it with the Colombian Minister of Foreign Relations, Dr. Gual, it appears that the object of the law was to burden with heavier duties the indirect trade from Great Britain and France, carried on through the medium of the West India

islands, and thereby to present to these powers an inducement to acknowledge the independence of the republic. However just or reasonable this expedient might be with reference to the relations between the Colombian people and European nations, it was manifestly injurious to the United States, nor was its injustice in any manner compensated by the provisions of another law of the Congress of 27 September, 1821, allowing a drawback of duties upon re-exportations *in their own vessels* of provisions imported from the United States. It is alleged by Dr. Gual that the object of this latter law was to favor the United States, by facilitating the indirect trade between them and the British colonies in the West Indies, the direct trade being then interdicted by the laws of the United States and of Great Britain. But this trade was carried on more advantageously to the United States by the way of the Swedish, Danish and Dutch islands, than it could be by that of the Colombian ports, and the object of favoring *their own shipping* appears more obviously as the motive of the law, than that of favoring the commerce of the United States. The opening of the direct trade between the United States and the British islands has, at all events, rendered all the provisions of the Colombian law of 27 September, 1821, inoperative; and assurances have been given by Dr. Gual that at the meeting of the Congress which was to take place in March last, measures would be taken for procuring the immediate repeal of the discrimination to the disadvantage of the United States, prescribed by the law of the 25th of September.

The spirit of the Colombian constitution is explicitly that of entire and unqualified independence; and the sentiments expressed by Dr. Gual to Mr. Todd have been altogether conformable to it. He has declared that the intention of the government is to treat all foreign nations upon the footing of

equal favor and of perfect reciprocity. This is all that the United States will require, and this, so far as their interests are concerned, they have a right to exact.

It has been in the first instance proposed by Mr. Torres that the treaty of commerce and navigation should be negotiated *here*, and he informed me that a minister would be appointed, with powers and instructions sufficient for concluding it at this place. Dr. Gual has informed Mr. Todd that the views of the Colombian government have since undergone a change; and although they have appointed Mr. Salazar as envoy extraordinary and minister plenipotentiary to the United States, and in March last he was under instructions to proceed forthwith upon his mission to this country, they were nevertheless exceedingly desirous that the *treaty* should be negotiated *there*.

The President deems it of no material importance to the United States whether the treaty shall be negotiated at Washington or at Bogota; but the proposal having first been made for concluding it here, it is natural to enquire what it was that produced the change in the wishes of the Colombian government, with regard to the seat of the negotiation. Dr. Gual intimated confidentially to Mr. Todd that it had proceeded from two causes: one, the desire to establish a *precedent* which might prevail upon the great European governments to negotiate likewise with the Republic at its own capital, and thereby hasten them to the recognition of Colombian independence; and the other a jealousy of their own negotiators in Europe, who were apt to become themselves entangled with European intrigues, and to involve the Republic in unsuitable and perplexing engagements.

With regard to the second of these causes, whatever occasion may have been given to the distrust of their own agents which it avows, it could have no application to their

transactions with the United States. By assuming the principles of independence, equality, and reciprocity as the foundations of all our negotiations, we discard all the incentives and all the opportunities for double dealing, overreaching, and corrupt caballing. We shall ask nothing which the Colombian Republic have any interest to deny. We shall offer nothing for which she may be unwilling to yield a fair equivalent. To the other reason, however, the President the more readily accedes, because perceiving its full force, it gives him an opportunity of manifesting in action the friendly disposition of the United States towards the Republic, and their readiness to promote by all proper means the recognition of its independence by the great European powers.

In the negotiation of all commercial treaties there is undoubtedly an advantage, at least of convenience, enjoyed by the party which treats *at home;* and this advantage acquires greater importance, when, as is now the case with both the parties, the treaty to become valid, must obtain the assent of legislative assemblies. This advantage, in the ordinary course of things, accrues to the party *to* whom the proposal of negotiation is first made. Independent then of all questions of precedence, and without resorting to the example of the first treaties negotiated by the United States, both of which considerations have been mentioned by Mr. Todd to Dr. Gual, the United States might insist upon having the negotiation concluded *here*, not only as the first proposal of it was made to them, but because the proposal itself was that it should be concluded here. The President however is well aware of the stimulus which a treaty negotiated, and even a negotiation known to be in progress at Bogota, will apply to the attention and jealous selfishness of European interests, and has no doubt that it will press them to the recognition

more powerfully than they have been urged by the example, or are likely to be by the exhortations of the North American government. You are accordingly furnished by his direction with the full power necessary for the conclusion of the treaty.

Dr. Gual informed Mr. Todd, that the project of the treaty was already prepared, and that a copy of it would be committed to Mr. Salazar, with powers and instructions, authorizing him to conclude the negotiation, if this government should insist upon its being completed here. The arrival of Mr. Salazar may be expected from day to day. In the meantime we are yet unacquainted with the particular objects of commercial intercourse which the Colombian government wishes to regulate with us by treaty. To us, the only object which we shall have much at heart in the negotiation will be the sanction by solemn compact of the broad and liberal principles of *independence*, *equal favors*, and *reciprocity*. With this view I recommend to your particular attention the preamble and first four articles of the first treaty of amity and commerce between the United States and France, concluded on the 6th of February, 1778. The preamble is believed to be the first instance on the diplomatic record of nations, upon which the true principles of all fair commercial negotiation between independent states were laid down and proclaimed to the world. That preamble was to the foundation of our commercial intercourse with the rest of mankind, what the declaration of independence was to that of our internal government. The two instruments were parts of one and the same system, matured by long and anxious deliberation of the founders of this Union in the ever memorable Congress of 1776; and as the declaration of independence was the foundation of all our municipal institutions, the preamble to the treaty with France laid the corner stone for all our subsequent transactions of intercourse with foreign

nations. Its principles should be therefore deeply impressed upon the mind of every statesman and negotiator of this Union, and the first four articles of the treaty with France contain the practical exposition of these principles, which may serve as models for insertion in the projected treaty, or in any other that we may hereafter negotiate with any of the rising republics of the south.

There is indeed a principle of still more expansive liberality, which may be assumed as the basis of commercial intercourse between nation and nation. It is that of placing the *foreigner*, in regard to all objects of navigation and commerce, upon a footing of equal favor with the *native* citizen; and to that end of abolishing all discriminating duties and charges whatsoever. This principle is altogether congenial to the spirit of our institutions, and the main obstacle to its adoption consists in this: that the fairness of its operation depends upon its being admitted universally. For while two maritime and commercial nations should bind themselves to it as a compact operative only between *them*, a third power might avail itself by its own restrictive and discriminating regulations, to secure advantages to its own people, at the expense of both the parties to the treaty. The United States have nevertheless made considerable advances in their proposals to other nations towards the general establishment of this most liberal of all principles of commercial intercourse.

On the 3d of March, 1815, immediately after the conclusion of our late war with Great Britain, an act of Congress (U. S. Laws, Vol. 4, p. 824) repealed *so much* of the discriminating duties of tonnage and impost as were imposed on foreign vessels and merchandize, beyond the duties imposed on the same in our own vessels; *so far* as they respected *the produce or manufacture of the nation to which the foreign vessel might belong*. The repeal to take effect in favor of *any* foreign

nation, whenever the President of the United States should be satisfied that the discriminating or countervailing duties of such foreign nation, so far as they operated to the disadvantage of the United States had been *abolished*.

On the 3d of July, 1815 (U. S. Laws, Vol. 6, p. 603), a convention was concluded with Great Britain, by the second articles of which this principle was adopted for the commercial intercourse between the United States and the British territories *in Europe*, so far as related to duties and charges of tonnage, impost, export, and bounties upon articles of the produce or manufacture of the two countries respectively. It was partially admitted for *drawbacks*. But the intercourse between the United States and the British possessions in India was differently regulated by another article of the same convention, and that between the United States and the British colonies in America was expressly excepted from the convention, leaving each party to the exercise in this respect of its own rights. This convention, originally limited to four years, was afterwards by the convention of 20 October, 1818 (U. S. Laws, Vol. 6, p. 607), extended for the term of ten years from that time.

On the 4th of September, 1816 (U. S. Laws, Vol. 6, p. 642), a treaty with Sweden and Norway was concluded, by the second article of which the same principle is established and extended to the Swedish island of St. Bartholomew in the West Indies, of equal duties and charges of tonnage, impost, export, and prohibitions upon vessels and their cargoes, being of the produce or manufacture of the respective countries, whether in vessels of the foreigner or the native. The duration of this treaty is limited to the 25th of September, 1826.

On the 20th of April, 1818 (U. S. Laws, Vol. 6, p. 344), an act of Congress repealed all discriminating duties of tonnage and impost in favor of the vessels of the *Netherlands* and

their cargoes, being of the produce or manufacture of the territories *in Europe* of the King of the Netherlands, or "*such produce and manufactures as can only be, or most usually are, first shipped from a port or place in the kingdom aforesaid;*" such repeal to take effect from the time the government of the Netherlands had abolished its discriminating duties upon the vessels of the United States, and on merchandise imported in them, being of the produce or manufacture of the United States.

By an act of 3 March, 1819, in addition to the above (U. S. Laws, Vol. 6, p. 411) it was extended in all its provisions and limitations to the vessels of *Prussia*, of the city of *Hamburg*, and of the city of *Bremen*.

This same act of 3 March, 1819, limited its duration, and that of the act to which it was in addition, and the act of 3 March, 1815, itself, to the 1st of January, 1824.

The provisions of the act of 3 March, 1815, have been extended by proclamations of the President of the United States as follows: 1818, 24 July, to the free and Hanseatic city of Bremen (U. S. Laws, Vol. 6, p. 599); 1 August, to the free and Hanseatic city of Hamburg (*Ib.*, p. 600); 1820, 4 May, to the free and Hanseatic city of Lübeck (*Ib.*, p. 601); 1821, 20 August, to the Kingdom of Norway (*Ib.*, p. 602); 22 November, to the dukedom of Oldenburg (*Ib.*, p. 774).

You will observe that the act of 3 March, 1819, admitted the vessels of *Hamburg* and *Bremen* to advantages more extensive than those offered by the act of 3 March, 1815, and which had already been secured to them by the proclamations of 24 July and 1 August, 1818. The same enlargement of the favors offered by the act of 3 March, 1815, is extended to the vessels of the Netherlands and of Prussia; while Norway has the double security of the principle offered in the act of 3 March, 1815, by the stipulation in the treaty

with Sweden and by the President's proclamation under the act.

The proclamation with regard to Norway was founded on an act of the government of that kingdom, not extending, however, to Sweden, abolishing all discriminating duties whatsoever in the Norwegian ports, between their own vessels and vessels of the United States, and upon their cargoes, of whatsoever origin, and whencesoever coming. This is the consummation of the principle of treating the foreigner in respect to navigation and foreign commerce upon a footing of equal favor with the native. The government of Norway, in adopting this regulation, required that it should be reciprocally granted to Norwegian vessels and their cargoes in the ports of the United States. This, however, could be granted only by an act of Congress, and the proclamation could only extend to them under the *law*, that to which they were already entitled by the *treaty*. The subject was submitted to Congress by a message of the President towards the close of the first session of the Seventeenth Congress (1 May, 1822), and the general policy of our commercial system, with particular reference to the act of 3 March, 1815, and the subsequent measures resulting from it, had been reviewed in the message of 5 December, 1821, at the commencement of the same session. The principle offered by the Norwegian government could not, however, then have been accepted without great disadvantage to the United States. Our direct trade with the British colonies in America was interdicted by our own and British laws. That with France was under countervailing regulations of both parties, equivalent to interdiction. To have granted then to Norwegian vessels unrestricted admission into our ports upon the same terms with our own, would in fact have granted them privileges which our own did not and could not enjoy,

our own being under the operation of restrictions and prohibitions ordained by Britain and France, from which the Norwegian vessels would have been exempt.

Our direct trade with the British American colonies has since been opened, and that with France has been restored: both however shackled with countervailing restrictions and regulations, burdensome to those by whom it may be carried on. As the act of Congress of 3 March, 1815, and all the regulations founded upon it will expire on the first of January next, the whole subject will again be before that body at their next session for revisal. In this state of things it may be perhaps most prudent in the commercial negotiation with the Republic of Colombia, to adhere to the principle of *equal favor with the most friendly nation*, leaving that of *equal favor with the native* for future consideration and concert between the parties.

To the same extent, however, as we are already bound by treaty with Great Britain until October, 1828, and with Sweden, until September, 1826, you may safely proceed, taking the second article of each of those compacts for a model, and forming an article embracing the stipulations of both. Thus far we may safely go with any one or more foreign nations, without endangering by the liberality of our engagements with them, the interests of our own country to be affected by the restrictive ordinances of others. An exception must be made with regard to the ports of St. Augustine and Pensacola, where, by the fifteenth article of the late treaty with Spain, special privileges are secured to Spanish vessels, until the 22d of May, 1833.

Among the usual objects of negotiation in treaties of commerce and navigation are the liberty of conscience and of religious worship. Articles to this effect have been seldom admitted in Roman Catholic countries, and are even inter-

dicted by the present constitution of Spain. The South American republics have been too much under the influence of the same intolerant spirit; but the Colombian constitution is honorably distinguished by exemption from it. The tenth and eleventh articles of our treaty with Prussia, or articles to the like effect, may be proposed for insertion in the projected treaty; and after setting this first example in South America of a constitution unsullied by prohibitions of religious liberty Colombia will deserve new honors in the veneration of present and future ages, by giving her *positive* sanction to the freedom of conscience, and by stipulating it in her first treaty with these United States.

It is in truth an essential part of the system of American independence. *Civil*, *political*, *commercial* and *religious* liberty, are but various modifications of one great principle founded in the unalienable rights of human nature, and before the universal application of which, the colonial domination of Europe over the American hemisphere has fallen, and is crumbling into dust. Civil liberty *can* be established on no foundation of human reason which will not at the same time demonstrate the *right* to religious freedom; and the control of a Bishop of Rome and a conclave of cardinals on the banks of the Tiber over the *freedom of action of* American nations on the shores of the Orinoco, or the Magdalena, is as incompatible with their independence, as the arbitrary mandate of a Spanish monarch and a Council of the Indies at Madrid. The tendency of the spirit of the age is so strong towards religious liberty, that we cannot doubt it will soon banish from the constitutions of the southern republics of this hemisphere all those intolerant religious establishments with which they have hitherto been trammelled. Religious and military coercion will be alike discarded from all the institutions framed for the protection of

human rights in civil society of independent nations; and the freedom of opinion and of faith will be guaranteed by the same sanctions as the rights to personal liberty and security. To promote this event by all the moral influence which we can exercise by our example, is among the duties which devolve upon us in the formation of our future relations with our southern neighbors; and in the intercourse which is hereafter to subsist between us, as their citizens may visit or transiently reside with us, will enjoy the benefit of religious freedom in its utmost latitude, we are bound to claim for our countrymen who may occasionally dwell for a time with them, the reciprocal exercise of the same natural rights.

In the present imperfect state of our information with regard to the existing commerce between the two countries, and the uncertainty what its future and permanent relations may be, it would be useless to enter into any further detail of articles which it may be proper to propose for the intended treaty of commerce. The republic of Colombia, if permanently organized to embrace the whole territory which it now claims, and blessed with a government effectually protective of the rights of its people, is undoubtedly destined to become hereafter one of the mightiest nations of the earth. Its central position upon the surface of the globe, directly communicating at once with the Pacific and Atlantic Oceans, north and south, with the Caribbean Sea and the Gulf of Mexico, brings it into relations of proximity with every other part of the world, while the number and variety of its ports on every sea by which it is surrounded, the magnitude and extent of its navigable rivers, three of which, the Amazon, the Orinoco, and the Magdalena, are among the largest in the world, intersecting with numberless tributary streams, and in every direction, the continent of South America, and furnishing the means of intercommunication,

from every point of its circumference to every spot upon its surface; the fertility of its soil, the general healthiness and beauty of its climate; the profusion with which it breeds and bears the precious and the useful metals, present a combination of elements unparalleled in the location of the human race; and relieve at least from all charge of enthusiasm the sentiment expressed by the late Mr. Torres, that this Republic appeared "to have been destined by the author of nature, as the center and the EMPIRE of the human family."

But it is to *man* placed in a Paradise like this that nature with her loudest voice exclaims, "God to *thee* has done his part — do thine." And the part of man, so gifted and so endowed, is to enjoy, and to communicate the bounties of providence so largely lavished upon him; and not to fancy himself destined to the *empire* of the human family. If the natural advantages bestowed upon the Colombian territory were to be improved by its inhabitants only for purposes of empire, that which nature has bestowed as a blessing upon them would in its consequences prove a curse inflicted upon the rest of mankind. The territory of Colombia contains at this moment little more than three millions and a half of souls. Were it only as populous as its late parent country, Spain, it would bear one hundred millions; and if as populous as France, nearly three times that number. At the most rapid rate of increase which human population has ever attained, even a doubling every quarter of a century, the Republic of Colombia for two hundred years to come may devote all her exertions to the improvement of her internal means of subsistence for the multiplying myriads of her people, without seeking support from the extension of her empire beyond her own borders. Let her look to *commerce* and *navigation*, and not to empire as her means of communication with the rest of the human family. These are the

principles upon which *our* confederated republic is founded, and they are those upon which we hope our sisters of the southern continent will ultimately perceive it to be for their own welfare, no less than for that of the world, that they should found themselves.

The *materials* of commercial intercourse between the United States and the Colombian republic are at present not many. Our exports to it hitherto have been confined to flour, rice, salted provisions, lumber, a few manufactured articles, warlike stores and arms, and some East India productions, for which we have received cocoa, coffee, indigo, hides, copper and specie. Much of this trade has originated and is continued only by the war in which that country has been engaged and will cease with it. As producing and navigating nations, the United States and Colombia will be rather competitors and rivals than customers to each other. But as navigators and manufacturers, *we* are already so far advanced in a career upon which *they* are yet to enter, that we may for many years after the conclusion of the war maintain with them a commercial intercourse highly beneficial to both parties, as *carriers* to and for them of numerous articles of manufactures and of foreign produce. It is the nature of commerce, when unobstructed by the interference of authority, to find its own channels and to make its own way. Let us only not undertake to regulate that which will best regulate itself.

In the conferences between Dr. Gual and Mr. Todd, the Colombian Minister of Foreign Affairs has spoken of treaties, *almost* treaties of alliance, concluded by the Colombian plenipotentiary, Mosquera, with the governments of Peru and of Chile, and which he expected would also be shortly concluded with Buenos Ayres. The purport of these treaties was mentioned by Dr. Gual only in general terms, but he said

that Mr. Salazar would be authorized to communicate copies of them to this government, and eventually to propose that the United States should accede to them, or take a part in the system which it was their purpose to originate. In January last, about the same time when Dr. Gual was making this confidential communication to Mr. Todd, we learn by despatches from Mr. Forbes, that Mr. Mosquera was at Buenos Ayres and had made his proposals of negotiation to the government there. Mr. Forbes speaks doubtfully of his prospects of success, and with some distrust of the character of his associations. The general intention but not the specific purport of the treaties had also been communicated by Mr. Mosquera to Mr. Forbes; but the Colombian minister had been more confidential with Mr. Prevost, who, in a despatch dated the 14th of December last states that he had obtained a sight of the original treaty. He describes it in a preceding letter as a treaty of alliance offensive and defensive, containing "a pledge from each of the contracting parties to send deputies to the Isthmus within a limited time, for the double purpose of effecting an union in support of a representative system throughout, and of preventing partial associations with any one of the powers of Europe. An agent (he adds) has gone to Mexico with the same object, and it is in contemplation as soon as the several treaties shall be ratified by Colombia to invite a representative from the United States to preside at a meeting intended to assimilate the politics of the south with those of the north." And in the letter of 14 December, after having seen the treaty, he says: "it embraces in the most express terms the several objects to which I alluded, together with a stipulation not to enter into partial arrangements with Spain, and not to listen to overtures on her part unaccompanied with an acknowledgment of the independence of all."

Mr. Prevost, as well as Dr. Gaul, entertains higher expectations of the success of this negotiation at Buenos Ayres than Mr. Forbes. Mr. Prevost thinks that it must succeed, although the government of Buenos Ayres is secretly averse to it, and implicated in secret intrigues with the Portuguese government and General Lecor for a confederacy of a different character. Dr. Gual told Mr. Todd that proposals had been made by the Portuguese government at Lisbon to Colombia, for a general confederacy of all America, North and South, together with the constitutional governments of *Portugal* and *Spain*, as a counterprise to the European *Holy Alliance;* but he said they had been rejected on account of their *European aspect.* Loose and indefinite projects of the same kind had been presented by the present Portuguese government to us, but they have never been considered even as objects of deliberation. Brazil has declared its own independence of Portugal, and constituted itself into an empire with an emperor at its head. General Lecor has lost the real command of his own army, and has been, or cannot fail shortly to be compelled to embark with all his European Portuguese troops for Lisbon. Then will come the question between Buenos Ayres and Brazil for Montevideo and the Oriental Band of La Plata, and then will soon be seen that the republican hemisphere will endure neither emperor nor king upon its shores.

Of this mighty movement in human affairs, mightier far than that of the downfall of the Roman Empire, the United States may continue to be, as they have been hitherto, the tranquil but deeply attentive spectators. They *may* also, in the various vicissitudes by which it must be followed, be called to assume a more active and leading part in its progress. Floating, undigested purposes of this great American confederation have been for some time fermenting in the imag-

inations of many speculative statesmen, nor is the idea to be disdainfully rejected, because its magnitude may appal the understanding of politicians accustomed to the more minute but more complicated machinery of a contracted political standard.

So far as the proposed Colombian Confederacy has for its object a combined system of total and unqualified *independence* of Europe, to the exclusion of all partial compositions of any one of the emancipated colonies with Spain, it will have the entire approbation and good wishes of the United States, but will require no special agency of theirs to carry it into effect.

So far as its purposes may be to concert a general system of popular representation for the government of the several independent states which are floating from the wreck of the Spanish power in America, the United States will still cheer it with their approbation, and speed with their good wishes its success.

And so far as its objects may be to accomplish a meeting at which the United States should preside, to assimilate the politics of the south with those of the north, a more particular and definite view of the end proposed by this design and of the means by which it is to be effected, will be necessary to enable us to determine upon our concurrence with it.

An agent from France, named Molien, and Mr. Lorich, the consul general of Sweden in the United States, arrived at Bogota in February last. Dr. Gual told Mr. Todd that Molien had no letters, or avowed powers, though he had intimated he was there by authority; that he was considered as a spy on behalf of a faction in France. "He had insinuated that the United States were *influenced by interested motives* in recognizing the new governments in South America; *that our influence in Europe had been impaired* by a

measure which *was considered premature*, and that he supposed we were now endeavoring to procure exclusive advantages for having been the first to recognize. And Dr. Gual added that Mr. Molien undertook to give him some *advice* as to our views. . . . Mr. Lorich came with authority, had proposed a grant of some exclusive privileges; but it would be rejected. The government was determined to grant none to any nation."

The political systems of Europe are all founded upon partial rights and *exclusive privileges*. The colonial system had no other basis; and having no generous or liberal views of their own, it is not surprising that they should entertain and disseminate suspicions of the disinterestedness of others. The French government sends an agent to Bogota without daring to trust him with a credential or an avowed power; and he executes his commission by misrepresenting our motives, upon *suspicions* which those to whom he makes the misrepresentation *know* to be unfounded, and by testifying to those who were benefited by our recognition, that we had made it by the sacrifice of some part of our influence in Europe. It must be admitted that the address of the agent in the performance of trust was upon a level with the candor and frankness in which it originated. While the French government pursues its new career in the affairs of the world with such designs, it is to be hoped the development of them will be committed to such performers.

Mr. Lorich's mission was simply to obtain exclusive privileges for Sweden, which, as she had nothing of exclusive benefit to offer in return, were of course rejected.

We are well aware that our recognition of South American independence was not palatable to the taste of any of the European governments. But we felt that it was a subject upon which it became us to take the lead, and as we knew

that the European governments, sooner or later, must and would, whether with good or with bad grace, follow our example, we were determined that both Europe and America should have the benefit of it. We hope also, and this is the only return which we ask and have a right to ask from the South Americans for our forwardness in their favor, that Europe will be compelled to follow the whole of our example, that is, to recognize without condition and without equivalent. We claim no exclusive privilege for ourselves. We trust to the sense of justice, as well as to the interest of the South Americans, the denial of all exclusive privileges to others.

The Colombian government at various times have manifested a desire that the United States should take some further and active part in obtaining the recognition of their independence by the European governments, and particularly by Great Britain. This has been done even before it was solicited. All the ministers of the United States in Europe have for many years been instructed to promote the cause by any means consistent with propriety, and adapted to their end, at the respective places of their residence. The formal proposal of a concerted recognition was made to Great Britain before the Congress of Aix-la-Chapelle. At the request of Mr. Torres on his dying bed, and signified to us after his decease, Mr. Rush was instructed to give every aid in his power without offence to the British government, to obtain the admission of Mr. Rovenga; of which instruction we have recent assurances from Mr. Rush that he is constantly mindful. Our own recognition undoubtedly opened all the ports of Europe to the Colombian flag, and your mission to Colombia, as well as those to Buenos Ayres and Chile cannot fail to stimulate the cabinets of maritime Europe, if not by the liberal motives which influenced us, at

least by others more immediately derived from their views of their own interest, to a direct, simple, and unconditional recognition. We shall pursue this policy steadily through all the changes to be foreseen of European affairs. Dr. Gual in his conferences with Mr. Todd appeared to be apprehensive that the new explosion in Europe, by bringing Great Britain to intimate connections of alliance with Spain, had not only made the British government more indisposed to the recognition of South American independence, but had even induced them to exercise their influence in impeding the recognition of it by others. This opinion is probably correct; but there is every reason to believe that the preponderating tendency of the war in Spain will be to promote the universal recognition of all the South American governments, and at all events our course will be to promote it by whatever influence we may possess.

Several other subjects have been mentioned in the conferences between Dr. Gual and Mr. Todd, upon which it is proper to apprize you of the President's views.

1. On the 24th of January, Dr. Gual stated that the government of *Peru* entertained the desire of communicating with the United States, and had requested it to be made through that of Colombia. He afterwards mentioned certain complaints of the Peruvian government against Captain Stewart of the *Franklin;* as having given convoy to our vessels conveying military stores to the ports of the royalists; and committed other unfriendly acts on their shores; and he promised to send Mr. Todd the papers relating to these complaints. But on the 28th of February he stated that the papers would be transmitted to Mr. Salazar, to be by him laid before this government.

The President will readily receive any communication from the government of Peru, which it may be disposed to

make through the medium of that of Colombia. With regard to the complaint against Captain Stewart, we shall wait for the promised communication from Mr. Salazar, to take such measures as the occasion may render proper, and they will be adapted as well to the friendly disposition which we feel towards the Peruvian patriots, as to the justice due to a very distinguished and meritorious officer in the service of our own country. Thus far it may be proper in the present stage of this concern, for you to notice the subject in your earliest intercourse with the Colombian government. But it may also be advisable for you to suggest the enquiry, how far the Colombian government, in assuming the office of a complainant for that of Peru, proposes to make itself responsible for the complaints which we in our turn have to urge, and have hitherto ineffectually urged upon the justice of the Peruvian patriots themselves? You will state that more than three years since Lord Cochrane issued a proclamation of blockade as extensive and as outrageous in its violation of the laws of nations as that of General Morales of September, 1821; that the property of many citizens of the United States has been seized under color of this blockade, and of other acts equally unjustifiable, of which the United States are still to seek the reparation; that the Colombian minister, if received as the representative of Peru to complain, will, we trust, also be commissioned as the representative of Peru to indemnify; and if we are to answer to Colombia for complaints for Peru, Colombia will hold herself responsible to us for the demands we have upon Peru. To the justice of this principle we have no doubt the Colombian government will readily accede, and if unwilling to assume the obligation of making satisfaction to us for Peruvian wrongs, will excuse us from discussing with them any question of Peruvian rights.

2. There was a complaint that "some of our officers at La Guayra had impressed some of their citizens on land as well as on the waters within their jurisdiction." From a subsequent representation it appears to have been an attempt on the part of Captain Spruce to seize on shore deserters from his vessel. It is scarcely necessary to say that the government of the United States cannot justify any trespass on the territorial jurisdiction of another nation; but in the present state of our information upon the subject, you can only give this assurance with the additional promise that upon proper enquiry into the facts full justice will be done to the complaint of the Colombian government. It will be proper in the treaty of commerce to insert an article authorizing the arrest and restoration of deserting seamen; of which the sixth article of our late convention with France (U. S. Laws, 17 Cong: 2 Sess: Appendix, page 22) may serve as a model. Perhaps even without waiting for the conclusion of a treaty, the restoration of deserters from foreign vessels may be obtained by an ordinance of police in the sea ports. Mr. Forbes has actually obtained such an ordinance at Buenos Ayres, which it is believed has proved an effectual remedy for an evil of which we had before that time had great reason to complain at that port.

Dr. Gual intimated to Mr. Todd, as he says with some warmth of feeling, that in similar instances the United States had *refused to release deserters from the Colombian service*. To what particular instance he alluded is not known; but it *is known* that *almost all* the seamen in the service of Colombia are foreigners, and many of them citizens of the United States, enlisted in the Colombian service in violation of the laws of their own country. It is highly probable that if there has been anywhere in this country a refusal to release deserters from the Colombian service, they have been

deserters of this description. The encouragement given to those enlistments has been among the causes of which we have had reason to complain, and may probably hereafter require a remonstrance from you. By the present constitution of Colombia the rights of citizenship are confined to natives of the territory and their children, landholders at the commencement of the revolution who have adhered to the cause of independence, and strangers after obtaining letters of naturalization. You will ascertain how these letters of naturalization are obtained. If they are granted of course to every sailor who enlists in their service, you will take some proper occasion to represent that this system interferes with the rights of other nations; and that although the United States freely admit the right of their native citizens to expatriate themselves, yet they cannot admit the exercise of that right by the violation of their laws, or of the contracts of the expatriated individual with others of their citizens.

3. Mr. Robert K. Lowry had, before the formal recognition of the Republic of Colombia, been for some time exercising the functions of *commercial agent* at La Guayra. This office of commercial agent is a substitute for that of consul in ports where consuls cannot be admitted, or to which from whatever cause they cannot be sent. After the recognition some exception was taken by the Intendant of Caraccas, supported by a letter from Dr. Gual, to the regularity of Mr. Lowry's commission, in consequence of which he has been much obstructed in the discharge of his official duties. It is unnecessary to refer to the reasons assigned by Mr. Todd to Dr. Gual for postponing the regular consulate appointment of Mr. Lowry, though it is to be observed they alleged a constitutional incompetency of the executive which is not admitted. Mr. Lowry has now been regularly appointed consul at La Guayra, and his commission was nearly two

months since despatched to him. It has doubtless ere this been received by him, and there can be no further question as to the extent of his powers, arising from the defective character of his authority.

But from the nature of Mr. Lowry's complaints to Mr. Todd it is evident that the authentication of his powers will not remove all the objections which have been made to his exercise of them. Of all the cases, in which according to his representations as referred to by Mr. Todd, the local authorities interfered with what he considered as his official jurisdiction, there appears to be only one in which it can be claimed with much earnestness for him even in the fulness of his formally consular commission. That the registers of vessels of the United States frequenting the port should be delivered to him, while they remain there, may be reasonably required, because it is prescribed by our laws, and because also by law the consuls of Colombia would be entitled to the same privilege in relation to the vessels of their nation in our ports; but we cannot demand for our consuls an exclusive jurisdiction in the cases of property though of our citizens, wrecked upon a foreign shore, and still less can we pretend to interpose to impair the territorial jurisdiction of a foreign nation within its own ports, in case of offences involving trials for life and liberty, though committed by citizens and on board of vessels of the United States.

Mr. Todd recommends that the particulars of the consular jurisdiction, and the maritime rights most likely to become subjects of collision, should be amply provided for by the treaty. To this in the abstract we have no objection, but in defining consular jurisdiction and authority there are two sides of a question to be considered. We must look not only to what it might be pleasant and convenient to us, that our consuls should be enabled to do in the ports of other nations;

but to what it might be equally pleasant and convenient to us, that foreign consuls should be permitted to do in our own. And this is a question not merely between us and Colombia, but between each of us on one side and the other with all the rest of the maritime world on the other side. That which we may stipulate for our consuls in Colombia we must yield to the consuls of Colombia, and by inference to the consuls of all other maritime nations here. We once had a consular convention with France, and have been for some years in negotiation with the present French government for the revival of it, with such modifications as may be found expedient. Until the system can be properly matured, which it is hoped may be at no distant day, the most prudent course will be, to provide by an article for the reciprocal admission of consuls into the ports of the parties respectively, with the powers and authorities belonging to those officers by the acknowledged law of nations, and an agreement if desired to concert hereafter a special consular convention.

One of the complaints of Mr. Lowry was relative to the case of the ship *Caravan* from Providence captured by a Colombian cruiser and carried into La Guayra, where the vessel had been cleared as neutral, and the cargo condemned as enemy's property. Mr. Lowry had invoked the stipulations of various treaties establishing and recognizing the principle that free ships make free goods; the application of which is denied by Dr. Gual, who appealed to the instructions from Mr. Pickering in 1797 to Messrs. Marshall, Pinckney and Gerry, our envoys in France.

By the general usage of nations independent of treaty stipulations, the property of an enemy is liable to capture in the vessel of a friend. It is not possible to justify this rule upon any sound principle of the law of nature, for by that

law the belligerent party has no right to pursue or attack his enemy without the jurisdiction of either of them. The high seas are a general jurisdiction, common to all, qualified by a special jurisdiction of each nation over its own vessels. As the theatre of general and common jurisdiction, the vessels of one nation and their commanders have no right to exercise over those of another any act of authority whatsoever. This is universally admitted in time of peace. War gives the belligerent a right to pursue his enemy within the jurisdiction common to both, but not into the special jurisdiction of the neutral party. If the belligerent has a right to take the property of his enemy on the seas, the neutral has a right to carry and *to protect* the property of his friend on the same element. War gives the belligerent no natural right to take the property of his enemy from the vessel of his friend. But as the belligerent is armed, and the neutral as such is defenceless, it has grown into *usage* that the belligerent should take the property of his enemy, paying the neutral his freight, and submitting the question of facts to the tribunals of the belligerent party. It is accident, however, that this *usage* has no foundation in natural right, but has arisen merely from *force*, used by the belligerent, and which the neutral in the origin did not resist merely because he had not the power. It is a usage harsh and cruel in its operation, and unjust in its nature: and it never fails in time of maritime war to produce irritation and animosity between the belligerent and the neutral. So universally has this been found to be its consequence, that *all* the maritime nations of modern Europe have shown their sense of it by stipulating in treaties the contrary principle, namely, that the property of an enemy shall be *protected* in the vessel of a friend. Great Britain herself, the most unwilling to admit this principle, because the most enabled to use the *force* upon which the

usage is founded, has recognized the superior justice and expediency of the other principle by stipulating it at distant intervals of time in two treaties with France — the treaty of Utrecht and the treaty of commerce of 1786. In the Seven Years War the King of Prussia resisted the capture by British vessels of the property of their enemies in the vessels of his subjects, then neutrals, and made reprisals upon British property for such captures. The question was then ultimately settled by a compromise under which the British government paid a large sum of money for indemnity to the Prussian subjects who had suffered by those captures. The armed neutrality of the American war is a memorable example of the testimony by almost all the civilized nations of the world to the principle, that the protection of all property, excepting contraband of war, on board of neutral vessels by neutral force, is of *natural* right. And of this principle there can be no question. If, however, a belligerent power founded upon the *usage* which has superseded the natural right, practices the seizure and condemnation of enemy's property found in the vessel of a friend, it remains for the neutral to decide, whether he will acquiesce in the usage, or whether he will maintain his natural right by force. No neutral nation is bound to submit to the usage, for it has none of the properties which can give to any usage the sanction of obligatory law. It is not *reasonable;* it is not conformable to the *law of nature.* It is not *uninterrupted.* That reduced to the option of maintaining its right by force, or of acquiescing in the disturbance of it which has been usual, the neutral nation may yield at one time to the usage, without sacrificing her right to vindicate by force the security of her flag at another. And the belligerent nation, although disposed to admit the right of neutrals to protect the property of her enemy upon the seas, may yet justly refuse the benefit of this principle,

unless admitted also by her enemy, for the protection of her property by the same neutral flag.

Thus stands the state of this question upon the foundations of *natural*, *voluntary* and *customary* law. How stands it between us and the Republic of Colombia on the ground of conventional law? By a treaty between the United States and Spain, concluded at a time when Colombia was a part of the Spanish dominions, and so far as the *Spanish* laws would admit, enjoyed the benefit of its stipulations, the principle that free ships should make free goods was expressly recognized and established. Is it asserted that by her declaration of independence Colombia has been entirely released from *all* the obligations by which, as a part of the Spanish nation, she was bound to *other* nations? This principle is not tenable. To all the engagements of Spain with other nations affecting their rights and interests, Colombia, so far as she was affected by them, remains bound in honor and in justice. The stipulation now referred to is of that character, and the United States, besides the natural right of protecting by force in their vessels on the seas the property of their friends, though enemies of the Republic of Colombia, have the additional claim to the benefit of the principle by an express compact with Spain, made when Colombia was a Spanish country.

Again, by the late treaty of 22 February, 1819, between the United States and Spain, it is agreed that the fifteenth article of the treaty of 1795, in which it is stipulated that the flag shall cover the property, shall be so understood with respect to those powers who recognize this principle: but if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose government acknowledged this principle, and not of others.

This treaty having been concluded after the territories now comprising the Republic of Colombia had ceased to acknowledge the authority of Spain, they are not parties to it, but their rights and duties in relation to the subject matter of it remain as they had existed before it was made. Nor will she be affected by it at all, if she continues to acknowledge in her new national character, and with reference to the United States, the principle that free ships make free goods, which was the conventional law between them while Colombia was a part of Spain.

You will urge all these considerations upon the Colombian Minister of Foreign Affairs, to obtain restitution of the cargo of the *Caravan*, or indemnity for it. The claim rests upon foundations so solid, that it is earnestly hoped your representations in its favor will be successful, and in the negotiation of the treaty you will press in like manner for the insertion of an article of the same purport as that of our last treaty with Spain above recited. The principle can with safety be recognized only to that extent; and to that extent the United States would willingly assent to it with every other nation. It is a principle favorable to the rights of peace, and of pacific spirit and tendency. It is recommended by every humane and liberal consideration as a rule of universal application. But the nation which would enjoy the benefit of it as a neutral, or as a passive belligerent, resorting to the neutral flag, must also recognize it as an active belligerent, and suffer the property of her enemy to be conveyed safely by the same flag which safely conveys hers. Otherwise the liberal principle of itself is turned to the advantage of the belligerent which rejects it, and the mild spirit of peace is made subservient to the unfeeling rapacity of war. . . .

There are several cases of claims by citizens of the United

States upon the Colombian government, which were given in charge to Mr. Todd, and concerning which he has been often promised by Dr. Gual that satisfactory proceedings would be had. Some of these are already of several years' standing, and indemnity was acknowledged to be due upon them so long since as when the late Commodore Perry was at Angostura. Mr. Todd will put you in possession of the papers relating to them, and you will follow up the demand of indemnities with all the earnestness and perseverance which their justice and the delays already interposed may require.

Many of them are complaints which have arisen from maritime captures. Before the establishment of the Republic of Colombia the Venezuelan revolutionary authorities for some time countenanced an irregular system of maritime warfare, which soon degenerated into absolute piracy. It became a subject of very earnest remonstrance by the government of the United States, whose citizens suffered severely under its depredations, whose laws were continually outraged by its operative agents, and whose good faith and justice towards other nations it tended very seriously to implicate. Since the organization of the new republic, there has been less reason for complaints, but satisfaction has not yet been made for those which had arisen before. A list of the cases committed to Mr. Todd, and copies of papers recently received at this Department from the Delaware Insurance Company at Philadelphia, relating to the schooner *Minerva*, are now furnished you. . . .

Our intercourse with the Republic of Colombia and with the territories of which it is composed, is of recent origin, formed while their own condition was altogether revolutionary, and continually changing its aspect. Our information concerning them is imperfect, and among the most

important objects of your mission will be that of adding to its stores; of exploring the untrodden ground, and of collecting and transmitting to us the knowledge by which the friendly relations between the two countries may be extended and harmonized to promote the welfare of both, with due regard to the peace and good will of the whole family of civilized man. It is highly important that the first foundations of the permanent future intercourse between the two countries should be laid in principles, benevolent and liberal in themselves, congenial to the spirit of our institutions and consistent with the duties of universal philanthropy.

In all your consultations with the government to which you will be accredited, bearing upon its political relations with this union, your unvarying standard will be the spirit of independence and of freedom, as *equality* of rights and favors will be that of its commercial relations. The emancipation of the South American continent opens to the whole race of man prospects of futurity, in which this union will be called in the discharge of its duties to itself and to unnumbered ages of posterity to take a conspicuous and leading part. It invokes all that is precious in hope and all that is desirable in existence to the countless millions of our fellow creatures, which in the progressive revolutions of time this hemisphere is destined to rear and to maintain. That the fabric of our social connections with our southern neighbors may rise in the lapse of years with a grandeur and harmony of proportions corresponding with the magnificence of the means, placed by providence in our power and in that of our descendants, its foundations must be laid in principles of politics and of morals new and distasteful to the thrones and dominations of the elder world, but co-extensive with the surface of the globe and lasting as the changes of time. I have, etc.

TO CHARLES JARED INGERSOLL

WASHINGTON, 19 June, 1823.

DEAR SIR:

I have but one excuse for acknowledging the receipt of your letters of 8 and 19 of May at this time, and that is so worn out by long and frequent use that I am ashamed to offer it. The field opened by them was so extensive that I was unwilling to answer you in a few words, and the time necessary for answering at large has not yet [been], and I now flatter myself will be soon at my disposal. The information concerning the copyrights and the patents shall be furnished very shortly. I believe your question relating to the comparative state of literary institutions, schools, colleges, and theatres of public speaking, may all be answered affirmatively to the advantage of this country. There is however a philosophical point of view in which this *comparative* state of things may be exhibited, which might present very interesting results, but which you or I could scarcely treat in a popular discourse without being liable to the charge of partiality, and which would be closely proximate to and perhaps inseparable from considerations of a character somewhat invidious. All our institutions partake of the nature of our government. All have a tendency to the level. Our *average* of intellect and intellectual power is higher than in any part of Europe, but the range above and below the horizontal line is not so great. In the physical and mathematical sciences, in the fine arts, and in the literature of imagination, we are far below the standards of England, France, Germany, and perhaps Italy, and very disadvantageously so, inasmuch as speaking the language of England we cannot contribute a tolerable proportion to her literature.

Our great superiority is in political science, government and political morality. The European and South American nations which have received and are acting under the impulse given by us seem destined only to illustrate that superiority. They have all caught from us the infection of making constitutions, and not one of them has yet been able to make a constitution which will work to secure the enjoyment of liberty, property and peace. Their constitutions result in nothing but civil war. In forty years we have not had one execution for treason, with a population multiplied from three to ten millions. The Europeans improve upon our theories till they become impracticable. In 1793 France set herself and the world on fire for a legislature in a single assembly. In 1823 Spain is doing the same thing. They are unable to form the conception of a legislature in two branches without privileged orders. We have reduced it universally to practice. The influence of our example has unsettled all the ancient governments of Europe. It will overthrow them all without a single exception. I hold this revolution to be as infallible as that the earth will perform a revolution around the sun in a year. But whether Europe will ever establish governments capable of securing to individuals all the benefits of good government, almost without use of force, and altogether without violence, is doubtful. If ever, certainly not within half a century. Your sentiments with regard to the Russian ukaze are to me spirited and rational. I would call them wise, had not my own entirely coincided with them. They have yielded to a system more cool, probably more profound, certainly more safe, upon the principle of preserving peace *in our time*. The present administration of the general government is drawing towards a close, and as it has been passed in a period of uncommon tranquillity in the European world, it has itself partaken of

the character. *Servatur adimum* is now its motto, and the ambition of the incumbent is to deliver over the trust in peace as well as in prosperity to his successor. I share so much in this feeling that although my first impressions were very distinctly avowed and agreed perfectly with your advice, I have more than acquiesced in the course determined upon after full advisement, the result of which you have seen in a newspaper paragraph. I hope we shall ultimately lose nothing by the adoption of this alternative.

I am, etc.

TO RICHARD RUSH [1]

DEPARTMENT OF STATE,
WASHINGTON, D. C., 24 June, 1823.

SIR,

. . . . . .

A resolution of the House of Representatives, almost unanimously adopted at the close of the last session of Congress, requested "the President of the United States to enter upon, and to prosecute from time to time, such negotiations with the several maritime powers of Europe and America, as he may deem expedient, for the effectual abolition of the African slave trade, and its ultimate denunciation as piracy

[1] This is one of a series of elaborate statements prepared by the Secretary of State for Rush's guidance on matters in controversy between the United States and Great Britain, such as the commerce between the United States and British Colonies in North America, the disagreements of the commissioners under the fifth article of the Treaty of Ghent, the admission of consuls in colonial ports, the Russian pretensions on the northwest coast of North America, the impressment of seamen and other topics incident to maritime war and neutrality, and the suppression of the slave trade. Of these statements only two are printed in these volumes, that on the slave trade and that on neutral rights.

under the law of nations, by the consent of the civilized world."

At the two preceding sessions of Congress committees of the House had proposed a resolution expressed in more general terms, that "the President of the United States be requested to enter into such arrangements as he may deem suitable and proper, with one or more of the maritime powers of Europe for the effectual abolition of the African slave-trade;" and this resolution had in each case been the conclusion of a report recommending that the United States should accede to the proposal of a mutual and qualified concession of the right of search. The sentiments of the committee were in this respect different from those which had been expressed by the executive department of the government in its previous correspondence with Great Britain. No decision by the House of Representatives was made upon these resolutions proposed at the preceding sessions; but upon the adoption of that which did pass at the last session, it was well ascertained that the sentiments of the House in regard to the right of search coincided with those of the executive, for they explicitly rejected an amendment which was moved to the resolution, and which would have expressed an opinion of the House favorable to the mutual concession of that right.

You have been fully informed of the correspondence between the governments of the United States and Great Britain, concerning the suppression of the slave-trade heretofore; and have been from time to time effectively instrumental to it yourself. You are aware of the grounds upon which the proposals on the part of Great Britain, that the United States should accede to the stipulations similar to those which she had succeeded in obtaining from Spain, Portugal, and the Netherlands, were on our part declined.

The subject was resumed by the British minister residing here, Mr. S. Canning, a short time before the decease of the Marquis of Londonderry. It was suggested that since the total disappearance of the British and American flags, as well as of those of the nations which had consented to put the execution of their laws against the trade under the superintendence of British naval officers, it continued to flourish under that of France. That her laws, though in word and appearance equally severe in proscribing the traffic, were so remiss in the essential point of execution, that their effect was rather to encourage than to suppress it; and the American government was urged to join in friendly representations to that of France, by instructing the minister of the United States at Paris to concur in those which the British ambassador at that court had been charged with making, to ensure a more vigilant fulfilment of the prohibitory laws. This invitation, at that time given only in oral conference, was also declined, from an impression that such a concurrence might give umbrage to the French government, and tend rather to irritation than to the accomplishment of the object for which it was desired. Mr. Gallatin was, nevertheless, instructed separately to bring the subject to the notice of the French government, and did so by a note communicating to them copies of the recent laws of the United States for the suppression of the trade, and particularly of that by which it has subjected every citizen of the United States who after the passage of the law should be polluted with it, to the penalties of piracy.

On the 29th of January last, Mr. Canning in a letter to this Department repeated the invitation of a joint and concurrent remonstrance, to be made by the British ambassador and our minister in France, and at the same time calling with great earnestness upon the government of the United States, either

to accede to the principle of the mutual and qualified right of search, emphatically pronounced in his belief to be the *only* effectual measure devised or likely to be devised "for the accomplishment of the ends, or to bring forward some other scheme of concert," which it again declared the readiness of his Majesty's ministers to examine with respect and candor, as a substitute for that of the British cabinet.

However discouraging this call for an alternative might be, thus coupled, as it was, with so decisive a declaration of belief that no effectual alternative had been, or was likely to be devised, an opportunity was offered, in pursuance of the resolution of the House of Representatives adopted at the close of the late session of Congress, for proposing a substitute, in our belief more effectual than the right of search could be, for the total and final suppression of this nefarious trade, and less liable either to objections of principle or to abuses of practice.

This proposition was accordingly made in my letter to Mr. Canning of the 31st of March last, to which his letter of the 8th of April was the answer. In this answer Mr. Canning barely notices our proposition, to express an opinion that his government will see in it nothing but an acknowledgment of the necessity of further and more effectual measures, and then proceeds with an elaborate review of all the objections which in the previous correspondence between the two governments had been taken on our part to the British connected proposal of a mutual right of search, and a trial by mixed commissions. Our objections had been of two kinds: first, to the mixed commissions as inconsistent with our constitution, and secondly, to the right of search, as odious to the feelings and recollections of our country. In this letter of Mr. Canning the proposal of trial by mixed commissions is formally withdrawn, and an alternative pre-

sented as practicable, one side of which only, and that the inadmissible side, is distinctly offered: namely, of trial by the courts of the *captor*. The other side of the alternative would indeed remove our constitutional objection, and with it might furnish the means of removing the principal *inherent* objection to the concession of the right of search — that, by which the searching officer is under no responsible control for that act.

But in the previous correspondence our strong repugnance to the right of search had been adverted to as merely matter of fact, without tracing it to its source, or referring to its cause. The object of this forbearance had been to avoid all unnecessary collision with feelings and opinions which were not the same on the part of Great Britain and upon ours. They had been willingly left undiscussed. This letter of Mr. Canning, however, professedly reviewing all the previous correspondence for the removal or avoidance of our objections, and contesting the analogy between the right of search, as it had been found obnoxious to us, and as now proposed for our adoption by formal compact, I have been under the necessity of pointing out the analogies really existing between them, and of showing that as right of search, independent of the right of *capture*, and irresponsible, or responsible only to the tribunals of the captor, it is as proposed essentially liable to the same objections as it had been, when exercised as a belligerent right. Its *encroaching* character, founded in its nature as an irresponsible exercise of force, and exemplified in its extension from search for contraband of war to search for enemy's property, and thence to search for *men* of the searcher's own nation, was thus necessarily brought into view, and connected the exhibition of the evils inherent in the practice with that of the abuses which have been found inseparable from it.

We have declared the slave-trade, so far as it may be pursued by citizens of the United States, piracy, and as such made it punishable with death. The resolution of the House of Representatives recommends negotiation to obtain the consent of the civilized world to recognize it as piracy under the law of nations. One of the properties of that description of piracies is, that those who are guilty of it may be taken upon the high seas, and tried by the courts of any nation. But by the prevailing *customary* law they are *tried* only by the tribunals of the nation to which the vessel belongs in which the piracy was committed. The crime itself has been in modern times until very recently of so rare occurrence, that there is no uniformity in the laws of the European nations with regard to this point, of which we have had remarkable and decisive proof within these five years in the case of piracy and murder committed on board the schooner *Plattsburg*, a merchant vessel of the United States. Nearly the whole crew were implicated in the crime, which was committed on the high seas. They carried the vessel into Christiansand, Norway, there abandoned her and dispersed. Three of them were taken up in Denmark, one in Sweden, one at Dantzig in Prussia and one in France. Those taken in Denmark and in Sweden were delivered up to officers of the United States, brought to this country, tried, convicted and executed. The man taken at Dantzig was by consent of the Prussian government sent to Elsineur, and there confronted with those taken in Denmark. The evidence against him on the examination was decisive; but as he persisted in the refusal to *confess* his guilt, the Prussian government, bound by an established maxim of their municipal law, declined either to deliver him up, or to try him themselves, but sent him back to Dantzig, there to remain imprisoned for life. The French government, upon advise-

ment of the highest judicial authority of the kingdom, declined also either to try the man taken up there, or to deliver him up, unless upon proof of his guilt being produced against him at the place where he was confined: with which condition, it not having been in our power to comply, the man remained there also in prison, presumably for life. From these incidents it is apparent that there is no uniformity in the modes of trial to which piracy by the law of nations is subjected in different European countries; but that the trial itself is considered as the right and the duty, only of the nation to which the vessel belongs, on board of which the piracy was committed. This was, however, a piracy committed on board of a vessel by its own crew. External piracies, or piracies committed by and from one vessel against another, may be tried by the courts of any country; but are more usually tried by those of the country whose vessels have been the sufferers of the piracy, as many of the Cuba pirates have been tried in the British West India Islands, and some of them in our courts.

This principle we should wish to introduce into the system by which the slave-trade should be recognized as piracy under the law of nations: namely, that although seizable by the officers and authorities of every nation, they should be triable only by the tribunals of the country of the slave-trading vessel. This provision is indispensable to guard the innocent navigator against vexatious detentions, and all the evils of arbitrary search. In committing to foreign officers the power, even in a case of conventional piracy, of arresting, confining and delivering over for trial a citizen of the United States, we feel the necessity of guarding his rights from all abuses, and from the application of any laws of a country other than his own.

The draft of a convention is herewith enclosed, which if

the British government should agree to treat upon this subject on the basis of a legislative prohibition of the slave-trade by both parties, under the penalties of piracy, you are authorized to propose and to conclude. These articles are, however, not offered to the exclusion of others, which may be proposed on the part of the British government, nor is any one of them, excepting the first, to be insisted on as indispensable, if others equally adapted to answer their purposes should be proposed. It is only from the consideration of the crime in the character of piracy that we can admit the visitation of our merchant vessels by foreign officers for any purpose whatever, and in that case only under the most effective responsibility of the officer for the act of visitation itself, and for everything done under it.

If the sentiments of the British government should be averse to the principle of declaring the trade itself by a legislative act piratical, you will not propose or communicate to them the enclosed project of convention. Its objects, you will distinctly understand, are twofold: to carry into effect the resolution of the House of Representatives, and to meet explicitly and fully the call so earnestly urged by the British government, that in declining the proposals pressed by them upon us, of conceding a mutual and qualified right of search, we should offer a substitute for their consideration. The substitute by declaring the crime piracy, carries with it the right of search for the pirates, existing in the very nature of the crime. But to the concession of the right of search, distinct from the denomination of the crime, our objections remain in all their original force.

It has been intimated by Mr. S. Canning, that the suggestion itself to the British government of the propriety of their passing a legislative act, might excite in them some repugnancy to it. We should regret the excitement of this

feeling, which the very nature of the negotiation seems to foreclose. Besides the legislative enactments which have virtually been pressed upon us by all the invitations to concede the right of search and to subject our citizens to trial for violations of our own laws by foreign tribunals, Great Britain in almost all her slave-trade treaties has required and obtained express stipulations for the enactment of prohibitory laws, by France, Spain, Portugal, and the Netherlands. It was not expected that she would receive with reluctance herself a mere invitation to that which she had freely and expressly required from others. Still, if the sentiment should exist, we would forbear pressing it to the point of irritation by importunity. You will in the first instance simply state that if the British government is prepared to proclaim the slave-trade piracy by statute, you are authorized to propose and to conclude a convention, by which the mutual coöperation of the naval force of Great Britain and of the United States may be secured for carrying into effect the law, which on that contingency will be common to both. Should the obstacle to the preliminary prove insuperable, you will refer the objections on the part of the British cabinet to this government for consideration.

By the loose information hitherto communicated in the public journals, it would seem that the proposition for recognizing the slave-trade as piracy by the law of nations was discussed at the Congress of Verona. We are expecting the communication of the papers relating to this subject, promised by Lord Liverpool to be laid before Parliament. Heretofore, although the United States have been much solicited and urged to concur in the measures of Great Britain and her allies for the suppression of the trade, they have been always communicated to us as purposes consummated, to which the *accession* of the United States was

desired. From the general policy of avoiding to intermeddle in *European* affairs, we have acquiesced in this course of proceeding; but to carry fully into effect the late resolution of the House of Representatives, and to pursue the discussion hereafter with Great Britain herself, whether upon her proposals or upon ours, it is obviously proper that communication should be made to us of the progress of European negotiation for accomplishing the common purpose, while it is in deliberation. If we are to coöperate in the result, it is just that we should be consulted at least with regard to the means which we are invited to adopt. I am, etc.[1]

TO STRATFORD CANNING [2]

DEPARTMENT OF STATE,
WASHINGTON, 24 June, 1823.

SIR,

In the letter which I had the honor of addressing you on the 31st of March last, a proposal was made to be submitted to the consideration of your government, that the *principle* assumed in an act of Congress of the United States of 15 May, 1820, of considering and punishing the African

[1] In instructing Middleton to enter into negotiation with Russia on the suppression of the slave-trade, Adams wrote, July 28: "In the meantime you will informally suggest to his ministry, that it will be the desire of the government of the United States to proceed in this matter in perfect good understanding and harmony with them. And you will farther intimate that as this has now become a general concern of the whole civilized world; and as Great Britain is negotiating *jointly* and *severally* with each and every of her allies in Europe apart, and again with them all together, while she is also separately treating with us, we wish it to be considered whether it would not be expedient on all sides that communication should be made to us of all the jointly concerted measures, while they are mere proposals; and not that the knowledge of them should be withheld from us until they are matured into positive treaties."

[2] For the cabinet discussion of this paper see Adams, *Memoirs*, June 19, 1823.

slave-trade as *piracy*, should be adopted as the basis of a stipulation by treaty between the United States and Great Britain; and to be urged separately, upon the adoption of France, and upon the other maritime nations of Europe in the manner most conducive to its ultimate success. It was observed that this offer was presented as a substitute for that of conceding a mutual right of search and a trial by mixed commissions, to which the United States could not be reconciled, and which would be rendered useless by it.

Your letter of the 8th of April, to which I have now the honor to reply, intimating that his Majesty's government will be disposed to receive this offer only as an acknowledgment that measures more efficient than any now generally in force are indispensable for the suppression of the slave-trade; and that although they have never opposed the consideration of any other plan, brought forward as equally effective, yet having from the first regarded a mutual limited concession of the right of search as the *only* true and practical cure for the evil, their prevailing sentiment will be of regret at the unfavorable view still taken of it by the government of the United States. Your letter therefore urges a reconsideration of the proposal for this mutual concession of the right of search, and by presenting important modifications of the proposal heretofore made, removes some of the objections which had been taken to it as insuperable, while it offers argumentative answers to the others which had been disclosed in my previous communications on this subject to you.

In the treaties of Great Britain for the suppression of the slave-trade with Spain, Portugal, and the Netherlands, heretofore communicated with the invitation to the United States to enter into similar engagements, three principles were involved, to neither of which the government of the United States felt itself at liberty to accede. The first was

the mutual concession of the right of search and capture, in time of peace, over merchant vessels on the coast of Africa. The second was the exercise of that right even over vessels under *convoy* of the public officers of their own nation. And the third was the trial of the captured vessels by mixed commissions in colonial settlements, under no subordination to the ordinary judicial tribunals of the country to which the party brought before them for trial should belong. In the course of the correspondence relating to these proposals, it has been suggested that a substitute for the trial by a mixed commission might be agreed to, and in your letter of the 8th of April, an *expectation* is authorized, that an arrangement for the adjudication of the vessels detained, might leave them to be disposed of in the ordinary way by the sentence of a court of admiralty in the country of the captor, or place them under the jurisdiction of a similar court in the country to which they belonged; to the former alternative of which you anticipate the unhesitating admission of the United States, in consideration of the aggravated nature of the crime as acknowledged by their laws, which would be thus submitted to a *foreign* jurisdiction. But it was precisely because the jurisdiction was *foreign*, that the objection was taken to the trial by mixed commissions; and if it transcended the constitutional authority of the government of the United States to subject the persons, property, and reputation of their citizens to the decisions of a court, partly composed of their own countrymen, it might seem needless to remark that the constitutional objection could not diminish in proportion as its cause should increase, or that the power incompetent to make American citizens amenable to a court consisting one-half of foreigners, should be adequate to place their liberty, their fortune, and their fame at the disposal of tribunals entirely foreign. I would further remark

that the sentence of a court of admiralty in the country of the captor is not the *ordinary way* by which the merchant vessels of one nation taken on the high seas by the officers of another are tried in time of peace. There is in the ordinary way no right whatever existing to take, to search, or even to board them; and I take this occasion to express the great satisfaction with which we have seen this principle solemnly recognized by the present decision of a British court of admiralty.

Nor is the aggravation of the crime for the trial of which a tribunal may be instituted, a cogent motive for assenting to the principle of subjecting American citizens, their rights and interests, to the decision of foreign courts. However ready Great Britain may be [1] to abandon those of her subjects who defy the laws and tarnish the character of their country by participating in this trade, to the dispensation of justice even by foreign hands, the United States are bound to remember that the power which enables a court to try the guilty, authorizes them also to pronounce upon the fate of the innocent; and that the very question of guilt or innocence is that which the protecting care of their constitution has reserved for the citizens of this Union to the exclusive decision of their own countrymen. This principle has not been departed from by the statute which has branded the slave-trader with the name and doomed him to the punishment of a pirate. The distinction between piracy by the law of nations and piracy by statute is well known and understood in Great Britain, and while the former subjects the transgressor guilty of it to the jurisdiction of any and every country into which he may be brought, or wherein he may be taken, the latter forms a part of the municipal criminal code of the

[1] These words were changed to, "For although Great Britain, as you remark, may be willing to" etc.

country where it is enacted, and can be tried only by its own courts.

There remains the suggestion that the slave-trader, captured under the mutual concession of the power to make the capture, might be delivered over to the jurisdiction of his own country. This arrangement would not be liable to the constitutional objection which must ever apply to the jurisdiction of the mixed commission, or of the admiralty courts of the captor. And if your note is to be understood as presenting it in the character of an alternative to which your government is disposed to accede, I am authorized to say that the President considers it as sufficient to remove the insuperable obstacle which had precluded the assent of the United States to the former proposals of your government, resulting from the character and composition of the tribunals to whom the question of guilt or innocence was to be committed.

The objections to the right of search, as incident to the right of detention and capture, are also in a very considerable degree removed by the introduction of the principle that neither of them should be exercised, but under the responsibility of the captor, to the tribunals of the captured party in damages and costs. This guard against the abuses of a power so liable to abuse would be indispensable, but if the provisions necessary for securing effectually its practical operation would reduce the right itself to a power merely nominal, the stipulation of it in a treaty would serve rather to mark the sacrifice of a great and precious principle, than to attain the end for which it would be given up.

In the objections heretofore disclosed to the concession desired, of the mutual and qualified right of search, the principal stress was laid upon the repugnance which such a concession would meet in the public feeling of this country,

and of those to whom its interests are entrusted in the department of its government, the sanction of which is required for the ratification of treaties. The irritating tendency of the practice of search, and the inequalities of its probable operation were slightly noticed, and have been contested in argument, or met by propositions of possible palliatives or remedies for anticipated abuses in your letter. But the source and foundation of all those objections was in our former correspondence scarcely mentioned and never discussed. They consist in the nature of the right of search at sea, which as recognized or tolerated by the usage of nations is an odious right [1] — a right exclusively of *war*, never exercised but by an outrage upon the rights of *peace*. It is an act analogous to that of searching the dwelling houses of individuals on the land. The vessel of the navigator is his dwelling house; and like that, in the sentiment of every people that cherishes the blessings of personal liberty and security, ought to be a sanctuary, inviolable to the hand of power, unless upon the most unequivocal public necessity, and under the most rigorous personal responsibility of the intruder. Search at sea, as recognized by all maritime nations, is confined to the single object of finding and taking contraband of war. By the law of nature, when two nations conflict together in war, a third, remaining neutral, retains all its rights of peace and friendly intercourse with both. Each belligerent, indeed, acquires by war the right of preventing a third party from administering to his enemy the direct and immediate materials of war, and, as incidental to this right, that of searching the merchant vessels of the neutral on the high seas to find them. Even thus limited it is an invidious and oppressive [2] act of power, which nothing

[1] The words "an odious right" were struck out.

[2] The words "invidious and oppressive" were struck out.

but necessity can justify, inasmuch as it cannot be justified but by carrying the evils of war into the abode of peace, and by visiting the innocent with some of the penalties of guilt. Among the modern maritime nations an *usage* has crept in, not founded upon the law of nature, never universally admitted, often successfully resisted, and against which all have occasionally borne testimony by renouncing it in treaties, of extending this practice of search and seizure to *all* the property of the enemy in the vessel of the friend. This practice was in its origin evidently an abusive and wrongful extension of the search for contraband — effected by the belligerent, because he was armed; submitted to by the neutral, because he was defenceless; and acquiesced in by his sovereign, for the sake of preserving a remnant of peace, rather than become himself a party to the war. Having thus occasionally been practiced by all as belligerents, and submitted to by all as neutrals, it has acquired the force of an usage, which at the occurrence of every war, the belligerent may enforce or relinquish, and which the neutral may suffer or resist at their respective options.

The search for and seizure of the property of an enemy in the vessel of a friend is a relict of the barbarous warfare of barbarous ages — the cruel and for the most part now exploded system of *private* war. As it concerns the enemy himself, it is inconsistent with that mitigated usage of modern wars which respects the private property of individuals on the land. As relates to the neutral, it is a gross and flagrant [1] violation of his natural right to pursue unmolested his peaceful commercial intercourse with his friend. Invidious as is its character in both these aspects, it has other essential characteristics equally obnoxious. It is an uncontrolled exercise of authority by a man in arms over a man

[1] The words "gross and flagrant" were struck out.

without defence; by an officer of one nation over the citizen of another; by a man intent upon the annoyance of his enemy [and eager for the detection of plunder]; [1] responsible for the act of search to no tribunal, and always prompted to balance the disappointment of a fruitless search by the abusive exercise of his power, and to punish the neutral for the very cleanness of his neutrality. It has in short all the features of unbridled power stimulated by hostile, selfish [2] and unsocial passions.[3]

[1] The words in brackets were struck out.

[2] The word "selfish" was struck out.

[3] President Monroe wrote some paragraphs to be substituted for what followed:

"I forbear to enlarge upon the further extension of this practice, by referring to injuries which the United States experienced when neutral, in a case of vital importance, because in digesting a plan for the attainment of an object which both nations have equally at heart, it is desirable to avoid every topic which may excite painful sensations on either side. I have adverted to the interest in question from necessity, it being one which could not be lost sight of in the present discussion.

"Such being the view taken of the right of search as recognized by the law of nations, and exercised by belligerent powers, it is due to candor to state that my government has an insuperable objection to its extension, by treaty, in any manner whatever, lest it might lead to consequences still more injurious to the United States, and especially in the circumstance alluded to. That the proposed extension will operate in time of peace, and derive its sanction from compact, present no inducements to its adoption. On the contrary they form strong objections to it. Every extension of the right of search, on the principles of that right, is disapproved. If the *freedom* of the sea is abridged by compact for any new purpose, the example may lead to other changes. And if its operation is extended to a time of peace as well as of war, a new system will be commenced for the dominion of the sea, which may eventually, especially by the abuses into which it may lead, confound all distinction of time and circumstances, of peace and of war, and of rights applicable to each state.

"The United States have, on great consideration, thought it most advisable to consider this trade as piracy, and to treat it as such; they have thought that the trade itself might, with great propriety, be placed in that class of offences, and that by placing it there, we should more effectually accomplish the great object of suppressing the trade, than by any other measure we could adopt.

"To this measure none of the objections, which have been urged against the extension of the right of search, appear to be applicable. Piracy, being an offence

I forbear to enlarge upon the further extension of this practice, which the United States, when neutral, have experienced at the hands of Great Britain as a belligerent; to the search for and seizure of *men*, upon an arbitrary claim

against the human race, has its well known incidents of capture and punishment by death, by the people and tribunals of every country. By making this trade piratical, it is the nature of the crime which draws after it the necessary consequences, of capture and punishment. The United States have done this by an act of Congress in relation to themselves. They have also evinced their willingness and expressed their desire, that the change should become general by the consent of every other power, whereby it would be made the law of nations. Till then they are bound, by the injunctions of their constitution, to execute it so far as respects the punishment of their own citizens, by their own tribunals. They consider themselves, however, at liberty until that consent is obtained, to coöperate to a certain extent with other powers, to ensure a more complete effect to their respective acts, they placing themselves, severally, on the same ground, by legislative provisions. It is in this spirit and for this purpose that I have made to you the proposition under consideration.

"By making the slave-trade piratical, and attaching to it the punishment as well as the odium incident to that crime, it is believed that much has been done by the United States to suppress it in their vessels and by their citizens. If your government would unite in the policy, it is not doubted that the happiest consequences would result from it. The example of Great Britain, in a manner so decisive, could not fail to attract the attention and command the respect of all her European neighbors. It is the opinion of the United States that no measures, short of that proposed, will accomplish the object so much desired, and it is the earnest wish of my government that the government of his Britannic Majesty may coöperate in carrying it into effect.

"I pray you," etc.

The President suggested that what was omitted from Adams' paper should be comprised in the letter to Rush, and added: "My idea is, after glancing at a principal ground of objection to their [the British] project, in a manner to show that it is insuperable, to prove, in the most conciliatory manner, that our plan will be more effectual, and is in short the only one that can succeed. By proposing to go further than they have done, and to commence the operation immediately to the extent that the constitution will admit, no imputation can be raised against our sincerity, and there is every reason to presume that we shall obtain the approbation of the friends of the abolition in England, and secure the support of Congress. The latter object will be more completely secured by strengthening in the manner proposed the letter to Mr. Rush, should the subject be brought before Congress." *Monroe to Adams*, June 22, 1823. Ms. See Adams, *Memoirs*, June 20, 23, 1823.

to their services as her subjects — a practice warranted by the usage of no other nation than Great Britain, and habitually practiced by her with no other nation than the United States. This deadly source of unextinguishable war has never yet been renounced by Great Britain; and the United States cannot forget that the only pretence of *right*, ever alleged by Great Britain in support of this practice of impressing *men* from the vessels of the United States on the high seas, was a supposed *derivative* right to take her subjects who might be *found* upon the American vessels, visited by virtue of the belligerent right of search in neutral vessels, for contraband and enemy's property.

With this experience and exemplification of the natural tendency to progressive encroachment of all power in its nature tyrannous and uncurbed, it cannot be surprising that the people of the United States, and those to whose charge their national interests are entrusted, should view with invincible repugnance any proposal to stretch yet farther this right of search, to introduce this rancorous and predatory right of war into the very bosom of peace; nor could this repugnance fail to be fortified by the observation that in the treaty specially recommended to their acceptance it was extended, in time of peace, even to vessels under *convoy* of the public force of their own country.

Independent of the separate, and nationally speaking selfish interest, which may urge the United States or Great Britain to the total suppression of the African slave-trade, they have no other motive for the accomplishment of that object, than those of general *benevolence* and *humanity* — motives so pure and exalted in themselves that the people of this Union will never be insensible to their call; and which *they are as ready to sanction by their example, as to cheer by their approbation, when advanced as principles for practical*

application in the code of international law. They have long felt, they were the *first* to feel, that the African slave-trade is a stain upon the character of the nation which endures it, a disgrace to human nature itself. They were in the family of civilized nations the first to stigmatize it with their reprobation, and to consign it to infamy by their laws. By successive prohibitions and penalties they have at length classed it among the most heinous of crimes; and with a political system peculiarly tender of human life, and averse to the multiplication of capital punishments, they have yet included it in the list of those aggravated offences which, striking at the foundations of human society, can be expiated only by an ignominious death.

But in the pursuit of objects pointed to the amelioration of our species, and the improvement of human virtue, the United States feel it incumbent upon them to adapt the character of their means to that of the ends which they would wish to obtain. In contributing their cheerful and zealous aid to the extinction of one species of oppression, they will be careful not to give their assent or countenance to the extension of another. In breaking the chains of Africa, they are not willing to forge fetters and manacles for themselves. Their reason has convinced them that the uncontrolled right of search at sea, by the soldier of one nation over the peaceful mariner of another, is itself incompatible with some of the most precious of human rights. That in its most restricted form, in the only form universally recognized as lawful of search for contraband, it is in its nature harsh and ungracious, and rather an exertion of force than an exercise of right. Their experience has taught them, that as extended to the depredation of enemy's property, and still more to the plagiat of *men*, it is among the most intolerable of human evils. That in resistance against it, they, by principle, by

interest, and by feeling the most pacific of nations, have been once driven [by desperation] [1] into a sanguinary [and unequal] [1] war. Their abhorrence of it is as profound and as just as that of the African slave-trade; and far from consenting to introduce it into the national code, as under any possible circumstances among the rights of peace, they would much more willingly welcome or make the proposal that it should share the fate of that trade itself, as entirely congenial to it, and be by universal consent and promise abolished and exploded from the practice of civilized nations.

The people of the United States are well aware that the *purposes* for which it is now proposed to interchange by compact in time of peace this right of search are not the *same*, to which it has been applied in time of war; and they see that the desire of obtaining it, by conventional law, is a tacit admission that without convention no such right can be asserted. But it is not the *purposes* for which search is practiced in time of war, which constitute the inherent vice of the practice; it is the essentially odious character of the means used. It is the violation of the domicil; it is the arrogation of control without responsibility; it is the humiliation of the visited and the insolence of the visiting party; it is the aggravation of abuses springing from the very nature of the practice; and above all it is its property, when once conceded for one purpose, of being arbitrarily adapted to another, which constitute the weightiest objections to it; and these are all independent of the purposes to which it is applied — all equally exceptionable in time of peace and in time of war. As to the admission implied by a convention that the right conceded by it would not otherwise exist, this proof is quite unnecessary, so long as no pretension to it has ever been advanced; and the United States are not disposed

[1] Words in brackets were struck out.

to deprive themselves by their own contract of the enjoyment of an undisputed blessing, for the benefit of the proof *of its previous existence furnished by its renunciation.*

It will be perceived that neither the limitation of the *number* of cruisers to be entrusted with the execution of this vexatious and offensive power, nor that of the range of *space* within which it might be confined, nor that of the *time* by which its duration might be determined, can remove the objections to it which are rooted in its nature. Nor can the presumption be admitted that regulations and instructions to the officers invested with the power of giving it effect, would preserve it from the abuses, to the contagion of which it is by its nature predisposed. There is indeed in the proposal itself a deep distrust of the regulations and instructions and officers of the nation, from whom this concession of the right of search in time of peace is desired. The nation which asks it virtually says to the nation from which it is asked: "Your laws for the suppression of this evil are sufficiently severe; but your regulations and instructions are inadequate, or your officers are unwilling to carry them into effect. Entrust the execution of them therefore to *mine.*" This sentiment, scarcely veiled in the general concession of the right of search, is broadly avowed in the extension of it to vessels under *convoy* of the officers of their own nation. Nor is it disguised by the offer of an apparent and nominal reciprocity. A nation conscious of its ability, and resolute in its will to carry its own laws into execution by its own officers, offers in substance nothing to another, when it says: "Your officers shall be at liberty to supply upon the seas the deficiencies of energy or of fidelity in mine." It offers a power for the exercise of which it intends that the occasion shall never arise; but when it asks for its own officers the same

power in return, it asks for a power with a view to the effective exercise of it; and if not prompted by the ambition of extending the agency of its physical power, beyond the bounds of its own sovereign jurisdiction, manifests at least the prevailing impression that the active energy of the other nation is not competent to the execution of its own wholesome laws.

The United States are as little prepared to admit the justice of the application of this sentiment to them, as to ask the admission of it from others. If their laws are inadequate to reach every individual of their citizens, polluted by the abominations of this traffic, it is not from any defect which could be remedied by the concession of the right of search. Their flag has been as effectually banished from the vessels of the slave-trade, as that of Great Britain; and the statement alluded to in your letter, of the governor of Sierra Leone in January, 1822, that the rivers Nunez and Pongas were under the control of renegado European and American slave-traders, while not necessarily implicating among them one British subject, or one citizen of the United States, has evident reference to the jurisdiction of the land, and not of the ocean; to the trade in slaves upon the shores, and not to the flag of ships visitable upon the seas.

This exposition of the causes which have rendered the exercise of the right of search upon the seas, by *foreign* officers, over the vessels of the United States, so obnoxious to the people of this Union, has been necessary in reply to the argumentative contestation in your letter of the justice of the sentiments which in our previous correspondence I had alluded to as being entertained by the people of this country, and their public servants concerning it. The aversion to it which we frankly acknowledge arises from no trivial and groundless jealousy, but from the essential nature and char-

acter of the *power*, solicited and offered. If in this development sentiments have been expressed with regard to this *search*, as practiced by Great Britain in time of war, more deeply indicative of feeling than of complacency, they have not been uttered in the temper either of reproach or of irritation. In all maritime war there is involved an angry collision between belligerent and neutral rights. In the recent annals of the human race, the interests of Great Britain, as understood by herself, have prompted her to the exercise of all the belligerent rights, in their broadest latitude, to say no more. Those of the United States have generally consisted in the maintenance and as far as practicable in the extension of the rights of *neutrality*. In all the controversies to which this relative state of the parties has given birth, the United States as neutrals have labored under two disadvantages, one resulting from the necessary condition of the parties; and the other an incidental consequence from it, contrary to the natural principles of justice, but sanctioned by that *customary* law, which often gives to inveterate usurpation the claim and the color of *right*.

The first of these is, that of a contest in which *right* is to be determined, the belligerent begins by the exercise of *force*, to which the neutral must be passive. The second is that the belligerent reserves to his own tribunals the exclusive judicial cognizance of the cause. I have said that this is contrary to the natural principles of justice, and am borne out in the assertion by that fair and honorable provision of the municipal law of England, that a *foreigner*, accused of a crime, shall have a right to trial by a jury consisting one-half of foreigners. The admiralty courts, which have tried the questions between American neutral and British belligerent rights, have been British and belligerent courts; and the consequence as we are told has been the promulgation of a code

of neutral rights by a belligerent tribunal. But in this belligerent promulgation of neutral rights, it can hardly be imagined that neutral interests and neutral principles have had their full and fair proportion of influence. The American neutral code has not been the dictate of belligerent judges, and if it has not been, like that of Britain, embodied in a long series of decisions upon particular cases, in every one of which the judge was the fellow-subject and official fellow-servant of *one* of the parties, embarked in the same cause and exclusively responsible to the same master whose cause it was, it has been at least formed upon principles more sympathizing with the interests and more propitious to the rights of neutrality.

This very asserted promulgation of a code of neutral rights by a belligerent tribunal is a signal proof of the injustice of that inveterate usurpation, by which the belligerent party has reserved to his courts the exclusive cognizance of the causes in which neutral rights are involved. For in its result the belligerent becomes the sole dictator of the law. The neutral tribunal has no cognizance of the cause, and the belligerent decision, sanctioned by the last resort of kings, stands inaccessible alike to neutral reason and to neutral power.

In this state of things the only manner in which the voice of the neutral can be heard is through the medium of diplomatic and executive correspondence; and in availing myself of this occasion of assigning to you and to your government the reasons of the unextinguishable aversion of the American people to the further extension of the right of search upon the seas, the necessity has been unavoidable of examining it in its nature, in its origin, in its progressive encroachments upon the rights of neutrality, and in its results of bitter experience to the people of the United States.

Search at sea, as practiced in war, is the exercise of *force* by the armed man of a nation at war over the unarmed man of a nation at peace. It has in its nature the usual aspects of uncontrolled and arbitrary power. The original purpose for which it was introduced, to intercept the supply of warlike means to the enemy, is in the present state of the world almost universally useless or ineffectual. As a pretext for the pillage of private property, it is again nearly useless against the enemy, though excessively annoying to the neutral. As an opportunity for the forcible seizure and abduction of *men*, it is galling, unqualified, unmitigated *tyranny* — in its operation upon the individual marked with the closest affinity to the slave-trade, and by the abuses inseparable from it, tainted with moral turpitude more atrocious than the slave-trade itself. For the slave at least, if deprived of all his rights, is not necessarily forced to the violation of his duties; while the neutral American mariner, impressed from a vessel of his country, into the belligerent service of Britain, was not only outraged in his dearest rights, but disabled from the performance of his duties. Snatched away from the fulfilment of his contracts; torn from his family and his country; immured in a prison from which there was no escape but by death, and there forced to fight against those whom his country's laws made his friends, and to shed his blood in a cause which his soul abhorred. When after many years of endurance and of remonstrance against this practice, it was finally resisted by war, the world was told that it was the mere exercise of the inalienable right of the king of Great Britain to the *allegiance* of his subjects, aided by the belligerent right of *search upon the seas;* while thousands of *American* mariners, who had been the victims of these asserted rights, after being offered the alternative of treason to their country, were transferred from the battle-

ship to the dungeon on shore, and rewarded for their services by confinement as prisoners of war.

Such, sir, to the experience of the American people have been the consequences of the practice of *search upon the seas*, and of the promulgation by belligerent tribunals of a code of neutral rights. Is it surprising that upon receiving from a nation which holds such doctrines concerning the right of search as belligerent, a proposal to extend it into the maritime code of *peace*, where it never yet had found pretence for a footing, they should have received it with unwillingness, and met the offer by a firm and settled, though cool and not willingly offensive denial? It is perhaps impossible that the British people and their government should *feel*, concerning the practice of search upon the seas, like the people and government of the United States. But if the British nation had ever known that thousands of their own native born fellow subjects had been taken by the violence of foreign officers upon the high seas, from the commercial service and from the vessels of their own country, secluded even from the means of obtaining their release or of making heard their complaint, forced to fight against the friends of Britain, and finally treated as prisoners of war, for refusing to fight against Britain herself, then, if the history of the British nation is not a fable, they never would have endured the proposition, that in the midst of peace they should grant to the very foreign officers from whom they had suffered all this, that identical right of search upon the seas, under color of which, as practiced in war, it had been inflicted. They would have loathed the *neutral* law of a *belligerent* legislator, and full of the spirit of their fathers from the days of Runnymeade, they would have said to the nation that made the proposal, no *British* man shall be taken from a British ship by foreign hands upon

the sea, but by the acknowledged laws of the sea, or subjected in time of peace to the laws of war.

They might have added, as we now add: we are willing on our part to declare the African slave-trader the enemy of the human kind; we are willing even with you to stipulate that your and our public naval officers, under proper guards of responsibility, shall be authorized to *take* the slave-trader of either nation, and to carry the culprit for conviction before the tribunals of his own country. But in granting thus far to foreign officers the *ministerial* power of executing our laws, we must reserve to the subject or citizen of either nation, presumed innocent till proved guilty, the right of judicial investigation by the laws and judges of his own land, and by the judgment of his own peers.

This proposition, while it concedes all the benefit that could be derived from the concession of the right of search in contributing to the suppression of the trade, would be more effectual for the direct attainment of that object itself. Were the slave-trade once recognized as piracy by the laws of nations, no single nation could afterwards withdraw its acknowledgment of it in that character; nor could war dissolve the treaties by which all would be bound to lend their aid for the accomplishment of its suppression. The right of search would then be merged in the right of capture, from which it ought never to have been separated, and the responsibility to the tribunals of the captured party, secured by stipulations indispensable for the protection of the innocent navigator, would guard against the abuses to which power without responsibility must always be liable, and which the people of the United States have found insupportable aggravations of the practice of search upon the seas.

I pray you, etc.

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